THE OFFICES OF

Conſtables, Church-Wardens, Overſeers of the Poor, Supra-viſors of the High-wayes, Treaſurers of the County-Stock; And ſome other leſſer Country Officers, plainly and lively ſet forth.

The ſecond Edition, with divers Additions and Alterations, agreeable to the late Acts and Ordinances.

By WILLIAM SHEPPARD, Eſq;

LONDON,

Printed by *Ric. Hodgkinſonne*, for *Nath. Ekins*, at the Gun in *Pauls* Church-yard.

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BRITISH MUSEUM
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APR

To all his Loving Country-men.

MY Deer Friends, whose welfare as I much desire, so shall I, as I may, endeavour. And having considered within my self, how commonly the most of you are necessarily called to take upon you the offices

of Conſtable, Church-warden, Over-ſeer of the Poor, Supraviſor of the Highwayes, *and ſome other like offices, how large the extent of theſe offices are, amd how little knowledge and skill the moſt of you have therein; whence it cometh to paſs, that in execution of them, ſometimes on the right hand you exceed your authority, and fall into the hands of the mercileſſe Malefactor; & ſometime (and more commonly) on the left hand, you fall ſhort of your authority, (for he that goeth in the dark knoweth not where he goeth) and doe not ſo much as you may, which proves a diſcouragement*

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ment to the officer, and encouragement to the offendor, and hindrance of Juſtice. For the Cure hereof, I did heretofore in one Book, give you a draught of all theſe leſſer Country offices, and therewith alſo an Epitome of ſome of the moſt common and uſefull Statutes referring thereunto. This Book I have now again reviſed, corrected, and by many alterations and additions fitted to our preſent time, and ſo I deliver it into your hands, as a Looking-glaſſe for you. And oh that I could now perſwade you all to buy it and read it, to know what you may, and what you are to doe.

And

And when you know it, in the name of God doe it, and fear not: for in so doing, you shall doe God much service, and your Country much good. And this that you may doe, shall be alwayes the prayer of

your Loving

Country-man,

W. S.

CHAP. I.

Of Offices and Officers in generall.

AN Office is that Function, by vertue whereof a man hath some imployment in the affairs of another. And an Officer is he that is so imployed. *Office and Officer, what.*

There are divers kinds and distinctions of Officers and offices in this Nation: we have had Officers and Offices Spiritual, or Ecclesiasticall, such as were conversant about Ecclesiasticall matters, as Ordinances, and such like, which are gone; and Ministers, Church-wardens, and the like, which doe yet continue. *The kinds of Officers.*

SECT. I.

OR Civill, such as were conversant about Civill matters. The Civill Officers and

Offices are again, some of them, judiciall, that is, such as are to administer Justice upon the Bench, and in the highest place, and have judiciall voyces in some of the Courts of Justice, as the Lords Commissioners of the great Seal, Judges in the two Benches, Barons in the Exchequer, Justices, of the peace in their Sessions, Stewards in Leetes and divers others. And others of them are ministeriall onely, that is, such as doe attend upon the judiciall Officers, and serve, either to prepare and make ready matters for the judiciall Officers to determine; so all the ministeriall Officers in and about all the Courts of Justice: or else they serve to execute what the Judges have before determined; such were Constables, Keepers of Prisons, and divers others: And some again are partly judiciall, and partly ministeriall, who have in some things a judiciall power, and act as Judges; and in other things, only a ministeriall power, and can act but as Ministers; so are Sheriffs, and other officers in divers particular acts of their Office: And some Officers and Offices are, and serve for all the Nation; and some are, and serve for one County onely, and may be called Countie Officers; so Sheriffes, Coroners, Treasurers of the County stock, and others; And some serve for one Hundred onely, and may be called Hundred Officers; and some are and serve for one Parish onely, as the Parish Constable, Church-wardens, Overseers of the poor, Surveiors of the high-wayes, the Register, Parish-Clerk, Hayward, and the like: And some for one place or house onely, as the Master

Maſter of the houſe of correction for that houſe, the Keeper of a Priſon for that Priſon onely, and ſo of others; ſome are for the publique adminiſtration of juſtice, as Sheriffs, Conſtables, and ſuch like Officers: and ſome are, and ſerve onely for, and to the private intereſt of ſome men, as the office of Parkers, Bayliffs, and ſuch like. As to Officers and Offices, that concern the publique adminiſtration of juſtice, theſe things are to be known as to their qualification.

1. They muſt be fit for their office, that are choſen into it.

SECT. 2.

AND therefore none that are by law priviledged and exempted, are to be choſen as the Officers, whoſe perſonall attendance is neceſſary in any of the Courts at *Weſtminſter*, or in the Court of *White-hall*, may be choſen to an office in the Country, wherein his perſonall attendance is neceſſary, as Conſtable, Churchwarden, or the like. Atturneys therefore, of the Courts at *Weſtminſter*, the ordinary ſervants of the Lord Protector in his houſe, are exempted; ſo are miniſters, alſo Phyſitians, and Surgeons in *London* are exempted, and ſome others.

2. They muſt be fit in body, and minde to to doe their work, and duty of the office, or elſe in ſome caſes they are to be removed, and others put in their place.

3. The Lord Protector, as it ſeemes, may,

by his Letters Patents, exempt any man from ſerving of any of theſe Offices. And as to their coming into their Offices,

1. They muſt be duly and orderly choſen, according to the law in that caſe provided, otherwiſe all that they doe in the execution of of their Offices, will be illegall, and they may be ſued for it. And therefore if a Conſtable, by conſent of Neighbours only, ſhall be choſen and ſworn in a Court Baron only, and not in a Leete, or by Juſtices of Peace, and he ſhall arreſt, or do any thing as Conſtable; he may be ſued as any other man that ſhall take upon him ſo to doe. So if Church-wardens, Overſeers of the poor, ſhall be choſen at any other time, or in any other manner, than is by the Statutes and Ordinances provided; or being duly choſen, ſhall not be confirmed by the Juſtices of the Peace, according to the Lawes in that caſe provided; all that he doth is unlawfull, and he may be ſued for it.

2. They muſt come freely to ſuch Offices, for if they give or promiſe to give any reward or fee for them, they are diſabled to execute or exerciſe the ſame Office. *Stat.* 5. and 6. *Ed.* 6. 16.

SECT. 3.

3. THey muſt attend their charge and Offices, & if they be negligent therein, ſometimes they may be puniſhed by ſpeciall penalty as the Lawes appoynt. And in ſome caſes, if any man have any ſpeciall prejudice by

by their neglect, he may perhaps have a ſpeciall action of the caſe againſt him for this neglect.

4. And as to their demeanor in their Offices;

1. They muſt in the execution of their Offices, purſue the order preſcribed by the Law in every particular; otherwiſe they may be liable to Actions for what they doe, as another man may be; and therefore if Overſeers of the Poor ſhall make a Rate upon one man that doth owe another poor man money as much as the debt, and give it to the poor man for his debt, or the like, he may be ſued for this, when he doth diſtrain for the money Rated. And if any ſuch Officers ſhall, by colour of their Offices, and by conſpiracy together, or with others oppreſſe any man, or charge him otherwiſe then the Law doth authorize them, the party grieved may have an Action of the caſe againſt him for it. But if any Rate made to the right and they over Rate, the party grieved cannot ſue them, nor have other remedy, but by appeal to the Juſtices or the Seſſions, as the Statute and Ordinance doth appoint.

SECT 4.

2. THeſe Officers cannot make a Deputy to execute their Offices, but another man may aſſiſt them, and doe ſome of the worke under them; but they muſt anſwer for them; nor can ſuch Servant or Deputy take any mans perſon, or goods, as Officers, but as aſſiſtant to the proper Officer, and by

his command; therefore let such Deputies take heed how they meddle herein.

3. And they must be content with the Fees appointed them by law, for any thing they doe in their Offices: for if any Officer, by colour of his Office, shall require, or take a fee where none is allowed, or take more than the fee allowed, where any fee is allowed: this is extortion and punishable by fine and imprisonment. And yet if any man shall *gratis* give an Officer any thing, for the doing of any part of his Office; this is no extortion, nor can he be punished for it

SECT. 5.

BUt as to this point of the Officers execution of his Office, and all the cases of law that referre thereunto. These things are further to be known.

Arrest. 1. That every Officer, that doth by vertue of his Office arrest any mans person, or take any mans goods; he must be sure to look to all these things.

2. That he hath a good authority so to doe, either by a good warrant from some superior Officer at the time of the act done, for a warrant after gotten will not doe, or *ex officio*, That is by his own authority as Officer, or otherwise his act will be unlawfull, and be liable to an action for the doing of it.

3. That he doe arrest or take the goods of the right party, and not of another man by mistake, for if he doe he will be liable to an action

action for it: And herein he is to know, that though he be led into the miſtake by the Proſecutor, Plaintiff, or Party arreſted himſelf, or a third man, this will not excuſe him: but if there be two of one name, and there be no note of diſtinction, and the Proceſs be ſerved upon the wrong, and not the man intended, the Officer is excuſeable: And yet if the Officer arreſt the party intended, but he is named by another name in the Warrant; this is actionable.

4. He muſt doe it at a ſeaſonable time. And for this, theſe things are to be known. 1. That an arreſt of a Man for Felony, or the Peace, or good Behaviour, or otherwiſe, in caſe of the Lord Protector, may be in the night as well as in the day. 2. No Officer may execute any Writ, Order, or Warrant on the Lords day, or any day of Humiliation, or thankſgiving (but in caſe of Treaſon, Felony, breach of Peace, and profaining of the day.) 3. If an Officer have a Warrant to arreſt; and bring a man to the next Seſſions, he cannot arreſt him after the Seſſions, and if he doe, he may be ſued for it. 4. In caſe of diſtreſſe of goods, it is ſafe for the Officer to doe it by day. 5. If he doe it out of time, he may be ſued for it.

5. He muſt doe it in the right place, for this he muſt know.

SECT. VI.

1. THat he cannot, regularly, take a Man or his goods, without the place or Parish where he is Officer, and yet perhaps if a Man be coming to take his Goods, and drive them out of the place, or Parish, he may follow them and take them, or if a Man be arrested by the Officer, and escape into another Parish, there, upon a fresh suite, he may follow him and take him there: And yet let the Officer be well advised herein: for we cannot assure him, that the Law will excuse him in these cases.

2. No Officer may arrest the Person of a Minister, going to, or returning from his Church, in an ordinary course, about the service of God, much lesse, when and whiles he is exercised about divine things.

3. And yet in this case, the arrest is deemed to be good, and no Action will lye against the Officer: but they may be punished by the Justices for it.

SECT. VII.

4. THe arrest of any other Man, whiles he is at Church, is punishable, by Justices of Peace; yet the arrest is good, not actionable: but an arrest of a Man going to, or coming from Church, on a week-day is very lawfull.

5. That

5. That after he hath arrested him, or attached his goods, he doe not abuse him or them; and therefore he can doe or use no more violence therein, but what is necessary to the safe custody, and convey of the Person, and his goods; and if he use more, he will be liable to action: so also, if he keep the Person or Goods longer than the Commitment, and when the Prisoner shall be discharged, upon any pretence whatsoever: so also when he keepeth the Person arrested, longer than he needeth, from the Justice or the Gaol, this is actionable.

6. If a Warrant from a Justice be to three or more joyntly, and severally, that they shall arrest or levy goods, they may all doe it, or any one of them may do it; but it wil not be safe for any two of them alone to doe it.

7. If an Officer doe any way misdemean himself, and doe otherwise then as before, in any of these things, if it be with the agreement and consent of the party arrested, or whose goods are taken, this will excuse and take away the Action. Now having said somewhat of Officers and Offices in generall, We shall say something to some of these Officers and Offices in particular; and first of County Officers, and then of Parish Officers, and then of Officers of some speciall places.

CHAP. II.

CHAP. II.

Of the Treasurers of the County Stock, for relief of Poor Maimed Soldiers and Marriners, and the Widows and Orphans of such as died in the Service of the Parliament, and their Office.

What they are, and how they are chosen.

THe Treasurers of the County Stock for the relief of Poor maimed Soldiers and Marriners, are certain Officers yeerly appointed by the Justices of Peace, to have the charge of the Receipt and disbursment of the money taxed and levied

ed upon the whole County yeerly for the relief of poor maimed Soldiers and Marriners: For the Justices of the Peace are yeerly at their Quarter Sessions, about *Easter*, to choose or appoint one or two persons (according to their discretion) of the County, for the taking and distributing of the moneys of the County, collected for the relief of the poor maimed Soldiers and Marriners: And the men so appointed (by the words of the Statute) must be such Men as, at the last Taxation before for the Subsidy, were valued at Ten pounds in Lands yeerly, or Fifteen pound in Goods (but if they be sufficient men, this it seems is not stood upon.) And these are to continue in their Office one yeer, and no longer, and then others are to be chosen in their room, 43 *Eliz.* 3.

The Office and Duty of these Officers doth consist in these things. *Their Office and Duty.*

1. They are to receive of the High Constables of the Hundreds quarterly the sums of money rated and taxed by the Justices of the Peace upon every Parish, for the relief of sick, hurt, and maimed Soldiers and Marriners; and if in case there be any defaults by the petty Constables, or High Constables, in the levying of the sums, or in the payment of them over, so as thereby they make any forfeiture. These Officers (and as it seems) without any Warrant from the Justices of Peace, may levy the same forfeitures by sale of the offenders Goods, rendring to him the overplus for the Parishioners; and in their default, the Petit-Constables and Churchwardens

wardens are to set the Justices Rate: And this Rate, if men pay not, the Church-wardens and Petit Constables may levy it by distress and sale of their Goods: And if neither the Parishioners, nor Constables and Church-wardens doe set the Rate, then any Justice of Peace in or near the place, may do it.

2. Every Soldier or Marriner, impotent, sick, and disabled by the publique service, having a Certificate to any of these Officers, under the Hand and Seal of the General of the Camp, or Governor of the Town where he served, or of the Captain of the Bond under whom he served, or his Lieutenant; or in the absence of the said Generall or Governor; from his Marshall or Deputy, or from any Admirall; or in his absence, from any other Generall of the Ships at the Seas, wherein the said Soldiers or Marriners did serve, setting down the particulars of their Hurts and Services; The Certificate being also allowed by the Generall Muster Master for the time being, in the Realm, or Receiver Generall of the Muster Rolls, the Treasurer and Controller of the Navy; This Soldier or Marriner may repair to any one of these Officers of that County, out of which he was prest; or if he were not prest, to this Officer of that County where he was born or last inhabited, by the space of three yeers at his Election: And if he be not able to goe thither, he may repair to any one of these Officers of the County where he doth land. And if any such Soldier or Marriner shall

ſhall thus make to any of theſe Officers, it is the duty of this Officer, to give ſuch a portion of relief to him at his preſent neceſſity, as he ſhall think fit; having reſpect to his need, and the commendation of his ſervice; and this to ſuſtain him untill the next Quarter Seſſions, and then the Juſtices of Peace by a kind of Inſtrument, may grant him a pention to be paid by this Officer, ſo long as the Statute doth continue, if the party ſo long live, and it be not duly revoked. And this muſt be alwaies paid by ſucceeding Treaſurers quarterly. But the ſame preſent ſum ſo given, or yeerly Pention ſo granted, muſt not exceed Ten pound in groſs, or *Per annum*, to a common Soldier, nor the ſum of fifteen pound to any that hath born Office under the degree of Lieutenant, nor the ſum of Twenty pound to any that hath been a Lieutenant. And theſe Pentions, the Juſtices at their Quarter Seſſions, may upon cauſes alter at their pleaſures. And theſe Marriners and Soldiers, when they Land in the way of their travell, before they can get the confirmation of their Certificate, muſt have competent allowance from the Treaſurer of every County as they paſs from the place of their Landing.

3. They are to keep a book, and therein to Regiſter all the Certificates they doe receive and allow, and all their receipts and diſburſments. And if any of them doe refuſe any Certificate, he muſt ſet down the reaſons of his refuſall under it, or on the backſide of it.

4. They are at the end of their yeer, to give

give up a juſt account to the ſucceeding Treaſurers, of all their receipts and diſburſments, within the time of their Office, and then alſo, if they have any money in their hands, they are to deliver up the ſame to the ſucceeding Treaſurers; And this they muſt doe within ten daies after *Eaſter* Seſſions. And if any ſuch Officer ſo choſen, ſhall refuſe to execute his Office, he may be fined for it by the Juſtices of the Peace: And if any ſuch Officer ſhall wilfully refuſe to give relief to a Soldier or Marriner as aforeſaid, the Juſtices of the Peace may fine him for the ſame, according to their diſcretion: And if any ſuch Officer, his Executors or Adminiſtrators, ſhall not give up his accompt within the time aforeſaid, or ſhall be otherwiſe negligent in the execution of his Office; The Juſtices of the Peace at the Seſſions, may aſſeſs ſuch fine upon him, his Executors or Adminiſtrators, as they think fit, ſo it be not under five pounds. And all the fines and forfeitures happening for the breach of this Statute, muſt be imploy'd by theſe officers to the uſes aforeſaid. And if any of the County Stock, ſhall be left in their hands, it muſt be diſpoſed to the uſe of the poor, in ſuch ſort as the Juſtices of Peace ſhall appoint. *Stat. 43. Eliz. Ch. 3.*

5. Theſe Officers now by the Ordinance of *May*, one thouſand ſix hundred forty ſeven, are alſo to receive the money Rated upon the County by the Juſtices of the Peace, at their Seſſions, for the relief of the maimed Soldiers and Marriners: And the Widows and Orphans,

phans, of ſuch as have died in the ſervice of the Parliament during the late Wars; And this they are to pay out thus.

1. To any ſuch maimed Soldiers and Marriners, as by Warrant under the Hand of two Juſtices of Peace they ſhall be appointed, untill the next Quarter Seſſions.

2. And then as by the Pention, there it ſhall be ſetled.

3. To the Widows and Orphans ſo much as two Juſtices of Peace ſhall ſet down.

4. In caſes where the High Conſtables of hundreds, or Petit Conſtables of Pariſhes, faile of their duty herein, and they are for for this neglect, to be fined by the Juſtices. For which ſee *chap.* 8. *ſect.* 2. *chap.* 10. *Numb.* 12. *chap.* 7. *ſect.* 8. It will be the duty of theſe Officers to ſee thoſe inferior Officers indicted for it, that ſo they may be fined for it, for without indictment they cannot be fined, *Ordin.* 10. *Auguſt.* 1647. and 20. of *May* 1647. *Stat.* 43. *Eliz. Ch.* 3.

CHAP. III.

CHAP. III.

Of the Treaſurers of the County Stock, for relief of the Priſoners in the *Kings Bench* and *Marſhalſey*.

what they are, and how they are choſen.

THE Treaſurers of the County Stock, for the relief of Priſoners in the *Kings Bench* and *Marſhalſey*, and for the relief of Hoſpitals and Almſ-houſes within the ſame County, are certain Officers yeerly appointed by the Juſtices of Peace, to have the charge of the Receipt and Diſburſments of the money, taxed and levied upon the whole County yeerly, for the relief of the Priſoners in the *Kings Bench* and *Marſhalſey*; and for the relief of Hoſpitals and Almſ-houſes within the ſame County; for the Juſtices of Peace are yeerly at their Quarter Seſſions, about *Eaſter*, to chuſe and appoint two perſons of the

the County, Officers for this purpoſe; and the men ſo appointed [by the words of the Statute] muſt be ſuch men, as at the Tax of the Subſidy laſt before were taxed at five pounds Lands, or ten pound goods at the leaſt, or near of that value. And theſe are to continue in their Office but one yeer, and then others are to be choſen. The Office and Duty of theſe Officers doth conſiſt in theſe things.

1. They are to receive of the High Conſtables of the Hundreds quarterly, the ſums of money rated and taxed by the Juſtices of the Peace, upon every Pariſh, for the relief of the poor priſoners in the *Kings-Bench* and *Marſhalſey*; and for the relief of the poor within the Hoſpitals and Alms Houſes within the County: And if in caſe there be any default by the Petty-Conſtables, or High Conſtables, or by the Church-Wardens in the rating, levying, or payment of theſe ſums, ſo as thereby they make any forfeiture: The ſe Officers (and as it ſeems, without any Warrant from the Juſtice of Peace) are to levy the ſame by ſale of the Offenders Goods, rendring to the party offending the overplus, if there be any, for the Pariſhioners; and in their default, the Petit-Conſtables and Church-Wardens are to diſtribute the Rate of the Juſtices of the Peace. And this Rate, if neither the Pariſhioners, nor Conſtables and Church-Wardens doe make, any Juſtice of Peace, in or near the place may make it; and being made, the Conſtables and Church-Wardens may levy it by diſtreſſe and ſale of Goods: And for lack *Their Office and Duty.*

of distresse, the Justice may send the party to Prison, there to abide till it be paid, without Baile or Mainprize.

2. This money so by them recived, they must pay over (and, as it seems, in convenient time after the Receipt thereof) to the Lord Chief Justice of *England*, and Knight Marshal for the time being, equally to be divided to the uses aforesaid, taking their acquittance for the same; or in default of the said Chief Justice, to the next ancientest Justice of the Upper-Bench.

3. They are to pay yeerly, by a quarterly payment, such a sum of money as shall be set down by the Justices of Peace, at their Quarter-Sessions, unto the Masters and Governors of the Houses of Correction; The which if they doe refuse or neglect to doe, the same Masters or Governors (without any other Authority) may levy the same of the Goods of the same Treasurers, by sale of their Goods, rendring to them the overplus.

4. The surplusage of the money, by them received, they must distribute and bestow for the relief of the poor Hospitals of the same County, and for the relief of those that shall sustain losses by Fire, Water, the Sea, or other Casualties, according to the discretion of the Justices of the Peace of the County.

5. They are at the end of their yeer, at *Easter*-Sessions, to give an account to the succeeding Treasurers of all their Receipts and Disbursments in the time of their Office:

fice : And then alſo, if they have any money in their Hands, they are to deliver up the ſame to the ſucceeding Treaſurers. And if any Treaſurer ſo elected, as before, ſhall wilfully refuſe to take upon him the ſame Office of Treaſurerſhip, or to diſtribute and give relief, or to account according to that Order the Juſtices ſhall ſet down, the Juſtices may fine him for the ſame, at their Seſſions, according to their diſcretion, ſo it be not under three pound : And all the Fines and Forfeitures for the breach of any Branch of the Statute 43 *Eliz. c.* 2. muſt be imployed to the uſes laſt aforeſaid, as the Juſtices ſhall appoint.

6. In caſes where the Conſtables and Church-Wardens of of Pariſhes, or Conſtables of hundreds faile of their duty herein, and they for this neglect are to be fined, by the Juſtices (for which ſee *chap.* 8. *ſect.* 2. *chap.* 10. *numb.* 12.) *chap.* 7. *ſect.* 8. It will be the duty of thoſe Officers, to ſee thoſe inferior Officers indicted for it, that ſo they may be fined for it; for without indictment, they cannot be fined, *Stat.* 43 *Eliz.* 7. *Jac.* 4.

CHAP. IV.

Of the *Collector* of the money for the relief of the Priſoners in the Common-Goal, and his Office.

what he is, and how he is choſen.

THE Collector of the money for the relief of the Priſoners in the Common-Goal, is an Officer appointed by the Juſtices of the Peace, to have the charge of the receipt and diſburſment of the money taxed and levied upon the whole County, for the relief of the Priſoners in the Common Goal. For the Juſtices of the Peace at their Quarter-Seſſions, are to chooſe and appoint ſome ſufficient perſon, living neer to the Common-Goal of the County; as a Collector to receive and diſtribute the money aſſeſſed by them upon the County, for the relief of the priſoners in the Common-

Common Gaol: And this Officer may be in his Office for longer time than one yeer. 14. *Eliz.* 5.

The Office and duty of this Officer, doth conſiſt only in theſe things.

His Office and Duty.

1. That he be ready at every Quarter-Seſſions, to receive from the High-Conſtables of the Hundreds, the monies Rated by the Juſtices of the Peace on every Pariſh, for the relief of the priſoners in the Common-Gaol of the County.

2. That he doe weekly pay and diſtribute the ſame to the ſame priſoners in ſuch ſort as the Juſtices of Peace ſhall appoint. And if he offend in either of theſe things, he ſhall forfeit for the ſame offence five pounds.

3. In caſes where the Church-Wardens doe not their duty, or the Conſtables of Hundreds doe not their duty herein, and they may be fined by the Juſtices for their neglect herein, (for which ſee *chap.* 8. *ſect.* 2. and *chap.* 10. *numb.* 12. It will be the duty of theſe Collectors to ſee them indicted before the Juſtices that ſo they may be fined; for without indictment they cannot be fined, *Stat.* 14 *Eliz.* 5.

CHAP. V.

Of the *Governor* of the Houſe of Correction, for the County and his Office.

What he is, and how he is choſen.

THE Governor or Maſter of the Houſe of Correction, is an Officer appointed by the Juſtices of Peace, to have Overſight and Government of the Houſe of Correction, and of perſons committed to the ſame. For ſuch Houſe are to be, and are provided and maintained with Mills, Turns, Cards, and ſuch like neceſſary implements in every County, for the Keeping, Correcting, and Setting to work of Rogues, Vagabonds, Sturdy Beggers, and other idle and diſorderly perſons. And the Juſtices of the Peace; or the greater part of them, at the Quarter-Seſſions, are to chooſe and appoint one or more ſufficient and honeſt perſons to be Governors, or Maſters of the ſaid Houſe, and to take ſufficient ſecurity from the ſaid Governors for the continuance

ance and performance of the ſaid Service; and to ſet down what allowance they ſhall have yeerly for their pains (which they may charge upon the County) and for the relief of ſuch as ſhall happen to be weak and ſick in their Cuſtody; and for the Stock to ſet on work ſuch perſons as ſhall be committed thither; and to ſet down other Orders touching the ſame, according to their diſcretion: And this Money ſo allowed, they ſhall have according to the appointment of the Juſtices of Peace as aforeſaid, to be paid quarterly before-hand by the Treaſurer of the County, for the relief of the priſoners in the *Kings-Bench* and *Marſhalſey*. And if the Treaſurer refuſe or neglect to pay it thus, the Maſter of the Houſe of Correction may levy the ſame, or ſo much thereof as ſhall be unpaid upon the Treaſurers accompt, by diſtreſſe and ſale of his Goods, rendring unto him the overplus of the Money, 39 *Eliz.* 4. 7 *Jac.* 4. The Office and Duty of this Officer, is in theſe things.

His Office and Duty.

Firſt, To look well to the ſame Houſe and the backſide thereof, and all the Implements and Goods he doth finde there; he is alſo to look to all the perſons he doth finde there, or that ſhall be afterwards committed to him.

Secondly, To receive ſuch Rogues, Vagabonds, Idle, or Diſorderly Perſons, as by any of the Juſtices of Peace ſhall be ſent thither.

Thirdly, To keep ſafely all ſuch as are committed to him, and not to ſuffer them to wander about the Countrey, or to eſcape away without Order of the Juſtices.

Fourthly, To ſee and take care, that a-

mongſt the perſons committed to his charge; if there be any ſick or otherwiſe impotent, &c. that have need of relief, That he doe relieve them according to their neceſſity.

Fifthly, To ſee and take care, as for the reſt that are able to work, that he doe from time to time, as they ſhall remain there, ſet them to work and labor; for during that time they muſt in no ſort be chargeable to the Countrey for any allowance, either at their coming in or going forth, or abode there; for they are to have ſuch and ſo much allowance only, as they ſhall deſerve by their own labor and work.

Sixthly, To puniſh them (as he ſeeth cauſe) with putting on Fetters or Gives upon them, and by a moderate whipping of them.

Seventhly and laſtly, At every Quarter-Seſſions to give an account of all ſuch perſons as have been committed to his cuſtody. And if they ſhall offend in any of theſe particulars, or any other incident to the duty of their Office; the Juſtices of the Peace may impoſe ſuch Fines and Penalties upon them for the ſame, as they ſhall think fit. And theſe fines muſt be paid unto, and accounted for, by the Treaſurer of the County for the *Kings-Bench* and *Marſhalſey*.

Chap. VI.

Of the Keeper of the Gaole of the County, and his Office.

Gaoler what.

THe Gaoler or Keeper of a Priſon, is one that hath the Cuſtody of the place and Priſon wherein Priſoners are kept; and of theſe, there are as many as there be Gaoles and Priſons.

His Power and Office.

As to the Power and Office of theſe Officers; theſe things are to be known.

1. They are to receive ſuch Priſoners as are duly ſent, or offered to them, and all that are ſent by a Juſtice of peace Warrant, they muſt receive. If any Officer arreſt a man upon ſuſpition of Felony, and carry him to the Gaoler, he muſt receive him without a Juſtice Warrant; and if any man that is no Officer, take a Fellon doing the Fellony, and bring him to the Gaoler; it ſeemes alſo that in this caſe, he is to receive him alſo.

2. His duty and charge is, to look well to the

the Prisoners that are in his custody; for if he suffer any of them to escape, he will be punished for it: If they be Prisoners for debt, and he let them escape voluntarily, or negligently, he must pay to the Creditor his debt. If they be in for Fllony, and the Keeper suffer them willfully to escape, he is a Fellon, if negligently he is finable: and so he is for the escapes of lesser Offenders.

3. It hath been held by some Judges therefore, that a Gaoler may justifie the putting of Bolts upon the Legs of any Prisoners committed to him.

4. Keepers they are to see, that their Prisoners have necessary provision.

5. For this the Law doth give an action of debt to the Gaoler, against his Prisoner; nor can the Prisoner in this action, be suffered to wage his law.

6. They are to take care, that such Prisoners as are in their custody in execution for debt, be kept in strait custody, and have not too much liberty: for by this means, they will be forced the sooner to pay their debts.

7. They may not compell, or procure their Prisoners to become approveres, that is accu- of others; for this is Fellony.

8. If a Prisoner of debt get away from a Gaoler against his will, he may follow him and take him again, and bring him to, and put him in, the Gaole again. And so he may any Prisoner that is in for any Crime or offence. But if a Keeper doe voluntarily deliver a Prisoner of debt, there he cannot retake him & put him in Prison again, for he is discharged of his

his impriſonment, and the Gaoler muſt ſatisfie the debt. *Coo.* 9. 87. *Dier.* 249. *Stat.* 1 *Ed.* 3. *Stat* 1, 7, 5 *Ed.* 3. 14 *Ed* 3. *Stat.* 1, 10. *Br. Faux Impr.* 24. 27.

CHAP. VII.

Of Conſtables, Tithingmen and the like Officers, and their Office.

SECT. I.

What they are, and how many ſorts of them there are.

TO omit to ſhew the Etymologie and diverſe acceptance of the word *Conſtable*, and the Antiquity and Original of the Office of the *Conſtable* we are now to treat of, and the divers kindes of Officers of this name in the Common-wealth, and to take up ſo much only as may ſerve to our preſent purpoſe. The *Conſtables.*

Statute of Wixcheſter, 1. *Lāb.* *of the Duty of Conſtables. Finches Law* 306. *Sir Tho. Smith de Repub. l.* 2. *cap.* 25. 12 *H.* 7. 18.

stables (whose Offices we intend to speak of) are said to be Officers of the Common-wealth, appointed for the maintenance of the Peace thereof, and to be attendant to Court-Leetes, Justices of Peace and Coroners, for the execution of their Warrants within their Precinct and Liberty: And Master *Lamberd* saith the name of a *Constable* in a Hundred or Franchise doth mean, that he is an Officer that did support the Kings Majesty in the maintenance of his Peace, within the Precinct of his Hundred or Franchise: And of these *Constables*, there are now said to be two sorts The first sort are the *high-Constables*, which are for the whole Hundred, Lathe, Rape or Wapentake, the which doe comprehend many Parishes, Tythings and Villages; and therefore these Officers, in respect of Place, have a more large command than *petty-Constables* have. These Officers were ordained by the Statute of *Winchester*, which doth appoint (amongst other things) That for the better keeping of the peace, two *Constables* in every Hundred or Franchise shall make the view of Armour; and they are called *high-Constables*, in comparison of the *Constables* or *pety-Constables*, that be in the Towns or Parishes within their Hundreds or Franchises, whose duty is likewise to maintain the Peace, within the severall limits of their Townes or Parishes: And of these *high Constables* there were to be, and were anciently, two in every Hundred, but at this day there is but one in many Hundreds. The other sort of *Constables*, are the *petty-Constables*, or the *under-Constables*, who are

are only for ſome part, as for a Town, Pariſh, Village, Tything or Hamlet within the Hundred (for every hundred hath his *high-Conſtable*, and every ſeverall Tything within the Hundred hath his *petty-Conſtable*, *Tythin-man*, or the like within it,) ſo that the Command of the *petty-Conſtable* is only in one part of the Precinct of the *high-Conſtable*, but otherwiſe for his Authority, by the ancient Common-Lawes; his Office (as far as his Precinct doth extend) is the ſame with the Office of the *high-Conſtable* over the whole Hundred. The *Tything-man*, *Borſholder*, *Borrow-Head or Head-Borrow*, *Third-Borow* and *Chiefe-Pleadge*, or by whatſoever names they be called in any Townes, Pariſhes, Tythings, Burrowes, Hamlets or other places, and their Offices are in effect, in moſt places, but one and the ſame: For in ſome Counties this Officer is called by one name, and in other Counties by another name, as in *Kent* he is called *Borſholder*; iu *Warwick-ſhire Thir-dBorow*, and in other places he is called *Conſtable*, and in ſome places he is called *Tything-man*; for he that is called and ſworn the *Tything-man* of any Place, is (in effect) the *Conſtable* of the Place: and therefore in ſuch places, for the moſt part, there is no other Officer called or ſworn by the name of a *Conſtable*; for, as *petty-Conſtables* about the beginging of the reign of *Edward* the third, were deviſed in Towns and Pariſhes for the aid of the *Conſtables* of the Hundred, ſo afterward *Borſholders*, and ſuch like, were uſed as *petty-Conſtables* within their own Tythings and Burrowes. But if it be ſo (as it is in ſome

few

few places) that there is one *Constable* for the Common-wealth, and there is also one or more *Tything-men*, and the *Constable* doth execute all the Office, and the *Tything-men* are but as attendants on him, and seem to have but little power; or it be as in some places, the *Tything-man* is to doe service to the Lord of the Mannor, rather than to the Common-wealth, and he is a customary *Tything-man* chosen at the Lords Court. Or if it be so that there are two or more *Tything-men*, and one of them is for the Common-wealth, to execute the Office of *Constable*, and is alwayes chosen at the Leet, and this *Tythingman*, time out of minde, hath been used to doe nothing about the Office of the *Constable*, but to doe other things; in these Cases the custome of the place may and must be continued, and such *Tything-men* shall not be compelled to doe more than by custome they have used to doe: Howbeit otherwise, and in all other places, all these Officers are comprehended within this word *Constable*, and all these Offices are contained within this Office.

SECT. 2.

Of the choyce and swearing of High-Constables, *and* Petit-Constables.

THE *High-Constables* are and may be chosen and made, either by the Justices of the Peace, at their quarter Sessions, or at the

the Leet, and there, eyther by the Steward of the Leet himſelf, or by the preſentment of the grand Inqueſt, in the Leet, as the courſe and cuſtome of the place is: And theſe were heretofore choſen and ſworn in the Sheriffes turn. The *Petty-Conſtables* are and may moſt properly be choſen by the Steward of the Leet himſelf, or the Preſentment of the Inqueſt in the Leet; But theſe alſo are choſen by the Ju- *Dalt. Juſt. of*
ſtices of the Peace at their Quarter-Seſſions. *P.* 37. 38.
And all theſe Officers are and may be choſen for one or two yeers, according to the cuſtome of the place. And when they are choſen at the Quarter-Seſſions, or at the Leet, they doe uſually take their Oathes there where they are choſen; or they may, and ſometimes they doe *Reſol. of the*
take their Oathes before one Juſtice of Peace, *Judges.*
at another time and place. A *Petty-Conſtable* alſo in ſome ſpeciall Caſe may be made and appointed by one Juſtice of Peace, and that out of Seſſions, as in caſe where one that is choſen *Conſtable* doth refuſe the Office, or one that is made *Conſtable* is removed out of his Office, or is dead; in theſe caſes, in reſpect of the neceſſity, and for a preſent ſupply, one Juſtice of Peace alone may Elect and Swear a new *Coo.* 8. 41. 42.
Officer, and then eſpecially when the Quar- *Titz. off. Juſt.*
ter-Seſſions, and the Leet are far off, and not *of P.* 201.
to be kept in a great time after: And as touch- *Lamb. in the*
ing this matter theſe things are to be known. *Conſt. duty* 10.

1. Where the cuſtome of the place is, for 11. *Dalt. Juſt.*
the Jury in the Leet to chooſe theſe Officers, *P.* 322. 323
there they may and muſt be choſen ſtill; for 18 *H.* 6. 13.
this is a good way and cuſtome, and the beſt 21 *Ed.* 3. 2. 12 *H.*
way of chooſing theſe Officers; but where the 7. 2 *H.* 4. 15.
cuſtome *Marb.*

cuſtome is otherwiſe, there it may be otherwiſe.

2. Which way ſoever they be choſen, there must be great care had that thoſe that are choſen be fit perſons to execute the Office; and therein theſe things muſt be obſerved. 1. The perſon choſen, muſt be a Lay, and not a Clergy-perſon, for all Clergy-men are exempt from this ſervice, as they are from attendance at the Leet; and therefore if any ſuch perſon ſhall be choſen to this Office, he may get himſelf diſcharged by a Writ; whereof ſee afterwards. 2. The party choſen, as he muſt be a lay perſon, ſo he muſt be a layman, not a lay-woman, and therefore a widdow or maid, albeit ſhe keep Houſe of her ſelf, and dwell in a Houſe whoſe owner hath been uſed to ſerve in this Office, is not to be choſen to this Office, no more than ſhe is to doe ſuit to the Leet. 3. The party choſen, as he muſt be a man, ſo he muſt be *idoneus homo, i. e.* a fit man, & that firſt for his knowledge, that he doth in ſome good meaſure underſtand what he doth and ought to doe. And therefore a man that is *non compos mentis*, as an Ideot or mad man, an Infant, or the like, cannot be a fit man. 2. He muſt be fit for his honeſty, that he may be likely to execute his Office truely without ill affection or partiality, and therefore it ſeems a ſcandalous liver, a malicious and contentious man cannot be a fit man. 3. He muſt be fit for his abilite of Body and Eſtate. And therefore an old, weak, ſick, or otherwiſe, impotent man; or a poor needy man that lives only by his labour, cannot be a fit

Cap. 10. Fitz. Leet in toto. Marb. cap. 10.

a widow cannot be choſen

fit man. It was therefore by ſpeciall direction from the King, in *An. Dom.* 1630. given in charge, that the *Conſtables* in all pariſhes ſhould be choſen of the able ſort of pariſhioners; and that the Office ſhould not be put upon the poorer ſort, the which if it were well obſerved, would no doubt much further the execution of Juſtice through the Nation. And if becauſe the common courſe is every where to put theſe Offices upon the meaner ſort of men, the more able ſort doe think themſelves thereby exempted, they are therein much deceived; for it is not much to be doubted but that all perſons that are bound to doe ſuit in the Leet, are bound to ſerve in theſe Offices, that are after a ſort appendant to the Leet; and therefore if any ſuch perſon be called and choſen thereunto, he muſt and will be compelled to execute the ſame: Howbeit it is deemed an unfit and indiſcreet part to elect any to theſe Offices, that in reſpect of their other Offices, Callings or Profeſſions, are preſumed to have ſo much other imployment that they have not leiſure to attend upon this ſo much as is required. And hence it is that the Juſtice of Peace, Sheriffs, Lawyers, Attornies, and ſuch like Perſons, are ſeldome or never choſen to theſe Offices; For if any Steward or Jury in a Leet ſhould be ſo indiſcreet as to chooſe any ſuch men to theſe Offices, the Juſtices of Peace, upon complaint to them hereof, will no doubt be ſo diſcreet as to diſcharge them again, and elect others in their place; for he cannot be fit for that Office which he hath no leiſure to wait and attend

tend upon : But otherwiſe it is not only lawfull, but convenient alſo, that theſe Officers be choſen, in all places, of the abler ſort of men. And therefore it hath been of late reſolved by the Judges, That if a man had made himſelf one of the Kings ſervants extraordinary, that this would not exempt him from the execution of this office, but he muſt have been made *Conſtable* notwithſtanding. 4. An Infant under the age of twenty one yeers may not of right bee compelled to ſerve in theſe offices. And yet if ſuch a one be choſen and ſworn, it ſeemes he may execute the office as another man may doe : And therefore if a young man of the age of twenty yeers, or thereabouts (eſpecially if he be ſuch a one as hath the growth wiſdome, and courage of an elder man, as ſometimes it falleth out) be choſen to this office, he ſhall doe well to take it upon him and execute it. An old man alſo aged ſixty, or thereabouts, (eſpecially if his ſtrength of body and minde be not much abated) may be compelled to ſerve in theſe offices. 5. If a man live within one Hundred or Tything, and have land only within another Hundred or Tything, he may not be choſen to ſerve in this office in the place where his land is ; for if he have no Houſe upon his Land, it ſeems neither he nor his Tenant is bound to ſerve in theſe offices at all, in reſpect of the Land : For men are bound to ſerve in theſe offices in reſpect of their Perſons and Reſiancy, and not in reſpect of their Land : But if he have a houſe upon his land, and a Tenant dwelling in it, and he be a ſufficient man and able to ſerve the office,

he

he may be choſen and made to ſerve it, but not the Land-lord, for perhaps he may be choſen to this or ſome other office in the place where he dwells, and a man can doe ſervice with his body but in one place at one time. And yet if the Caſe be ſo that a man hath two ſeverall Houſes in two ſeverall precincts, and within ſeverall Leets, and he doe live ſometimes at the one houſe and ſometimes at the other houſe, in this caſe he may perhaps be made an Officer at either of the Leets, within either of the places, if he be there dwelling at the time when the Leet is kept; for a man may doe corporall ſervice at two places, at ſeverall times. But if two Tythings be within one Leet, and one man hath houſes in both the Tythings, in this caſe it ſeemeth doubtfull, whether albeit he doe live in the one Tything, he may not be compelled to ſerve in this Office for his Houſe in the other Tything, eſpecially if the Tythings be neer, and he keep no Tenant in his Houſe fit to undergoe the Office when it ſhall come to his turn; wherein, as in all other ſuch like caſes a due conſideration muſt be had of all circumſtances.

3. By that which hath been ſaid it may appear, then how unreaſonable a thing it is, that theſe Offices ſhould follow the Houſes, or that two or three in a Tything, and no more, ſhould alwaies execute the ſame (as in ſome places hath been uſed) and therefore it hath been well and wiſely altered by the Order of the Juſtices in ſome if not in all places. *Removing of a Conſtable.*

4. If there be a man unfit, for any of the

causes aforesaid, chosen and appointed to this Office in a Leet, either by the Stewards nomination, or by the Presentment of the Jury, or by one Justice of Peace, only, out of Sessions, such a man may be removed and discharged again, by Order of the Justices of Peace, at their Sessions, and another man more fit may be by them, then and there, elected and sworn in his room that is so removed. But if the man elected and made *Constable* in a Leet, be a fit man, the Justices of the Peace may not remove him and appoint another: And so it hath been agreed by the Judges. And yet if the Justices of the Peace shall remove such a man chosen in a Leet, that is a fit man, it seems there is no remedy but by complaint to the Lord cheif Justices, or the Judges of the Circuit, &c. If the *Constable* be chosen by the Jury in a Leet, and the man chosen be unfit, and the Steward of the Leet doth perceive it; in this case it seemes the Steward himself may elect and swear another man, more fit, and refuse and discharge him that is so chosen by the Jury. And it is held also; That in default of the Leet, or otherwise, where there shall be just cause, every Justice of Peace, *ex officio*, may remove the old *Constable* and choose and swear a new one; and that for this purpose he may send forth his Warrant to require such Person to come in and take his Oath before such Justice of the Peace. Also there was (as it seems) another way of discharging and removing of this Officer, by a Warrant from the King to the Sheriffe of the the County, and to the *High-Constable*

Custome. Prescription.

Conſtable of the Hundred, whereof ſee a preſident in *Daltons Juſt. of Peace, fol.* 322.

5. No cuſtome or preſcription to exempt any man not exempted as before, or to warrant an undue election, contrary to the rules before laid down, will availe or ſhall be allowed unto any perſon or Tything.

6. If a man be choſen to this Office in a Leet, and he refuſe to take the charge thereof upon him, he may be fined for this contempt in the ſame Leet. And if he be choſen at the Seſſions, or by one Juſtice of Peace out of Seſſions, and he refuſe to take his oath, he may be Indicted and fined at the Seſſions for this contempt. *Numb.* 1. *Deputy.*

7. A *Conſtable* choſen and ſworn, may make what Deputies he will, under himſelf, to execute his Office; for there is no doubt but in time of ſickneſſe, and at other times alſo he may, if he will, execute his Office by Deputy, but the Officer himſelf muſt expect to anſwer for all the miſ-doings of his Deputies. And if one man be choſen an Officer, and he deſire to have a Deputy, and to have him ſworn and allowed, if the Deputy be ſufficient, and be allowed and ſworn, in this caſe the Deputy, and not the other, is the Officer; and therefore the Duputy muſt anſwer for himſelf, and his doings, and not the other for him. But the making of a Deputy in this caſe, is rather by tolleration than by Law, and ſo hath it been delivered by the Judges.

The form of the Oath of a *Constable.*

YOu *shall swear well and faithfully to serve the Common-wealth, in the Office of a* Constable. *You shall see the publique Peace to be well and duely kept and preserved, to the utmost of your power. You shall arrest all such persons as in your presence shall ride or goe armed offensively, or shall commit or make any* Riot, *Affray, or other Breach of the publique Peace. You shall doe your best endeavour, upon complaint to you made, to apprehend all Fellons, Barators & Riotors, or persons riotously assembled; and if any such offendors shall make resistance with force, you shall levie* Hue *and* Cry, *and shall pursue them untill they be taken. You shall doe your best endeavour that the watch in your town be duely kept, and that* Hue *and* Cry *be duely pursued according to the Statutes: And that the Statute made for punishing of Rogues, Vagabonds, and Night-walkers, and such other idle and wandring persons coming within your liberties, be duely put in execution. You shall have a watchfull Eye to such persons as shall maintain or keep any common house or place where any unlawfull games or playes are or shall be used; as also to such as shall frequent or use such places, or shall exercise or use any unlawfull games or playes there or elsewhere, contrary to the Statute. And you shall have a care for the maintenance of Archery according to the Statute. At your Assizes, Sessions, or Leet you shall present all and every the offences committed or done contrary to the Sta-*

tutes

tutes made and provided for the reſtraint of the inordinate haunting and tipling in Taverns, Innes, Alehouſes and other Victualing-houſes, and for the repreſſing of drunkenneſſe and prophane ſwearing. You ſhall true Preſentment make of all Blood-ſhedding, Affraies, Outcryes, Reſcues and other offences committed or done againſt the publique Peace within your limits. You ſhall well and duly execute all Precepts and Warrants to you directed, from the Juſtices of the Peace and others in Authority in this County. And you ſhall well and duly, according to your Knowledge, Power, and Ability doe and execute all other things belonging to the Office of a Conſtable, *ſo long as you ſhall continue in the ſaid Office.*

So help you God.

Or thus more briefly.

YOu ſhall ſwear that you ſhall well and duly execute the Office of Conſtable [*or* Tything-man] *for the Pariſh* [*or* Tything] *of* S. *for this next yeer* [*or half a yeer, as the Caſe is*] *and untill another be ſworn in your room, or you ſhall be legally diſcharged thereof.*

So help you God.

CHAP. VIII.

Of the Power and Duty of the High-Conſtable *and* petty-Conſtable *in common, and one with another; And of ſome few things the* petty-Conſtable, *and not the* High-Conſtable, *is to doe.*

THeſe Officers and their Offices, as they had a far greater Authority than now they have, ſo have they been of far greater account than now they be. For by the ancient Common-lawes, before there were any Juſtices of Peace made, the *Conſtables* of every Village had a kinde of Rule within the ſame Village, and were to keep the Peace there; and therefore the *Conſtable* was called the Ruler of the Village, and it is thought, that at that time the Authority and account of theſe Officers was much like

to

to the Authority and account of the Juſtices of the Peace at this day; and therefore they had then the ſame Titles of *Conſervators of the Peace* given unto them, which is given to the Juſtices of Peace at this day, *Sed tempora mutantur & nos mutamur in illis*: For this is vaniſhed now, and there is but little ſigne of it; for at this day they doe for the moſt part but execute the Commands of others & yet ſomewhat there is remaining, as the footſteps of what formerly they had, the which to ſet forth is our labor in this place: For the opening whereof we ſhall obſerve this method. Firſt, we ſhall ſhew what all *Conſtables*, High and Low *Tything-men*, *Borſholders*, *&c.* may and muſt doe, and what is their common and equall Duty and Authority, and then next what the *High-Conſtable* may and muſt doe more than the *petty-Conſtable*, *&c.* and wherein theſe Officers have a diſtinct and ſeverall duty one from another; and then we ſhall ſhew what the *Conſtables* of ſome great Townes may doe in ſome ſpeciall Caſes.

SECT. I.

Certain generall Rules and Caſes about theſe things.

FOR the further cleering and opening of theſe things, obſerve theſe Rules and Caſes following.

1. Every of theſe *Borſholders*, *Tything-men*, *Borow-heads*, *Head-borowes*, *Third-borowes* and *Chief-pledges*, hath two ſeverall Offices at this day

Numb. 1. *Lamb. in the Duty of Conſtables leſſ.* 6.

day, the one being his Ancient and first Office, and the other his later made Office; his first Office began thus. By the ancient Lawes of this Nation (before the comming in of King *William* the Conqueror) it was ordained for the more sure keeping of the Peace, and for the better repressing of Theeves and Robbers, That all free born men should cast themselves into severall Companies, by ten in each Company; and that every of those ten men of the Company should be surety and pledge for the forth-coming of his fellowes; so that if any harm were done by any of these ten against the Peace, then the rest of the ten should be amerced, if he of their Company that did the harm should flie and were not forth-coming, to answer to that wherewith he should be charged; and for this cause these Companies be yet in some places of *England* called *Borroes*, of the word *Borbes*, Pledges or Sureties; albeit in the Western parts of this Nation they be commonly named *Tythings*, because they contain the number of ten men, with their families; and even as ten times ten doe make an hundred, so because it was then also appointed that ten of these Companies should at certain times meet together for the matters of greater weight, therefore that generall Assembly or Court was, and yet is, called a *Hundred*. And it was then also ordained, That if any man were of so evill credit that he could not get himself to be received into one of these *Tythings* or *Boroes*, then he should be shut up in prison, as a man unworthy to live at liberty amongst men abroad; and whereas every of these

theſe *Tythings* or *Boroes* did uſe to make choice of one man amongſt themſelves to ſpeak and to doe in the name of them all; he was therefore in ſome places called the *Tything-man*, in other places the *Boroes-Elder*, now called *Borſholder* in ſome places, in other places the *Boroe-Head* or *Head-Borow*, and in ſome other places the *Chief-Pledg*, which laſt name doth expound the other three that are next before it; For *Head* or *Elder* of the *Boroes*, and *Chief* of the *Pledges* are all one, and in ſome Shires where every *Third-Borow* hath a *Conſtable*, there the Officers of the other two are called *Third-Borowes*. Moreover in theſe *Tythings* or *Boroes*, ſundry good orders were obſerved, and amongſt others: Firſt, That every man of the age of twelve yeers ſhould be ſworn to the King. Then that no man ſhould be ſuffered to dwell in any Town or place unleſſe he were alſo received into ſome Suretyſhip and *Pledge* as is aforeſaid: And that if any of theſe Pledges were impriſoned for his offence, then he ought not to be delivered without the aſſent of the reſt of his Pledges. Again, That no man might remove out of one *Tything* or *Boroe*, to dwell in another, without lawfull Warrant in that behalf. Laſtly, That every of theſe *Pledges* ſhould yeerly be preſented and brought forth by their *Chief-Pledg*, at a generall Aſſembly for that purpoſe, which at this day is called *The view of Frank Pledg*. And of this ancient Office there is yet ſome ſhew in our Leets or Law dayes, and well were it for us if the very ſubſtance thereof were throughly performed at this day. The latter

latter Office of these Officers, is in manner all one with the Office of a *Petty-Constable.*

Numb. 2. Secondly, some things these Officers are to doe in their Office, they are to doe, *Ex Officio*, and by the duties of their places, without any command from others, and for other they must doe them by command from others, and without this they need not doe it, nor can they

Numb. 3. justifie the doing thereof. Thirdly, Some part of their Offices are derived from the ancient Common-Law, and other parts from certain Acts of Parliament newly made, whereby they are further enabled or charged than

Numb. 4. they were before by the Common-Law. Fourthly, The Office of the *Petty-Constable* and *High-Constable* is one and the same for most things, only the *High-Constable* is over all the *Hundred*, and the power of the other is only in his

Numb. 5. *Parish* or *Tything*, Fiftly, That whatsoever the Law doth require of these Officers by the duty of their place that it doth give them authority to doe, and whatsoever the Law doth give them authority to doe, that for the most part the Law doth enjoyn them by the duty of their place to doe. Sixtly, Whatsoever any other man may doe in those things whereabout the Office of a *Constable* is conversant, the *Constable* may much more doe: And therefore a *Constable* may without doubt part Affrayors, or keep them asunder in a Room of his own or of another mans house, for a time, to prevent mischief. And if he see one coming with a weapon drawn, or the like, intending to take part in the Affray, he may lay hands on him and stay him, and he may Arrest or Imprison one he

Dalton's J. P. 28. 296. Fitz. Just. P. 30. Lamb. Just. of Peace 240.

Numb. 6. *What every man may doe in the Constables Office.*

Arrest.

doth

doth know or ſuſpect to have committed a Felony, or one that is apparently about to commit a Felony, or one that hath dangerouſly wounded another, or night-walkers that are dangerouſly ſuſpicious, or one that keepeth or uſeth any Gunne, &c. contrary to the Statute, or the like; for in all theſe caſes any other private man that is no Officer, may doe the ſame and juſtifie it. Seventhly, That which ſhall be ſaid of one of theſe Officers muſt regularly be underſtood of all the reſt, except it be in the caſes wherein the office of the *High-Conſtable* of the *Hundred*, and of the head *Conſtable* of a Town are in ſome few things ſingular. So that as the *Conſtable* of a Pariſh is to labor to keep the Peace, ſuppreſſe Fellons, execute the Juſtice of Peace his Warrant, and the like: So is the *Tythingman*, *Borſholder*, *Borohead*, *Thirdborow* and *chief Pledge* of a Pariſh to doe the ſame; and this Officer, where he is called by this name within his Precinct, hath the ſame authority in all things as the *Conſtable* hath within his Precinct. Eighthly, All the caſes herein ſet down touching the office and duty of theſe Officers muſt be ſo underſtood as to give them authority, & to charge them within their own limits and precincts only, and no farther; for howſoever theſe Officers are bound to look to the Peace, to ſuppreſs Fellons, execute the Juſtices warrants, and the like, yet all this is to be underſtood within their own *Hundreds*, *Pariſhes* and *Tythings* only, within which only they have authority and power; except it be in ſome ſpeciall caſes, ſhewed after; for out of the Compaſs of their *Hundreds*,

Fellons.

Nightwalkers.

Numb. 7.

Numb. 8.

dreds, Tythings and Parishes, they have no more authority than a private man, neither are they more bound there to doe any of the things that doe belong to their office, than any other man is. Ninthly, that in case of pursuit and apprehension of Fellons, and carrying them to Gaole, in case of suppressing Insurrections, allaying of Affrayes, keeping of the Peace, execution of the Warrants of Justices of the Peace, and the like, any of these Officers (when need shall be) may require the ayde and assistance of so many of his Neighbours, or others, of all sorts of able men, above fifteen years of age, as he shall think meet; and so also he may doe in case where a man is hurt and dangerously wounded, for the apprehending and arresting of him that gave the wound; and so also he may doe when a Warrant is sent unto him, for the apprehending of a popish Recusant, by speciall provision of the Statute of 3 *Jac. cap.* 4. And if any such person being required by any of these Officers, in any such case, shall refuse or neglect to aide them, he may be fined and imprisoned for it at the Quarter Sessions. Tenthly, these Officers, if they cannot otherwise get in, may justifie the breaking open of any mans house in these Cases following (*viz.*) to search after or arrest any Person for Treason or Felony, or suspicion thereof, that is or is thought to be in the House; to take a man that hath dangerously hurt another, and is fled into the House; to appease an affray that is in the House; to apprehend a Popish Recusant, upon a Warrant to break open the house, and upon

Numb. 9. *Ayde.* *Broo. Ry.* 3. *Tresp.* 431. 3 *H.* 7. 10. 13 *H.* 7. 10. 38 *Ed.* 3. 8. *Dalt. J. P.* 303.

Numb. 10. *Breaking of a house.* *Coo.* 5. 92. *Dalt. J. P.* 176. 177. 13 *Ed.* 4. 9. 3. *Jac.* 4.

upon a Warrant for the Peace or good Behaviour, by the opinion of *Popham* and *Clerk*, Judges of Aſſiſe at *Cambridge*. And ſo generally in all caſes wherein the Keepers of the Liberty are Party, or where they have any Intereſt in the buſineſs. And yet it ſeems in caſe of a Warrant to apprehend an Alehouſe-keeper for ſelling without licence, and to carry him to Bridewell upon the ſecond Conviction; it was doubted by the Judges, in their *Reſol.* 1633. *Sect.* 11. But in all theſe caſes the Officer, before he doth break open the houſe, muſt ſignifie the cauſe of his comming, and require them to open the dores. Eleventhly, where an Officer hath power to arreſt a man, and being coming to doe it, the party doth flye into another *County* or *Hundred*; in this caſe the Officer may preſently purſue him whitherſoever he ſhall ſo flie, and arreſt him there, albeit it be in another *Hundred* or *County*, out of his own Precinct. Twelfthly, if a man commit a Fellony in one County, and be arreſted in another County for the ſame, by the freſh purſuit of the Officer, or ſome other, purſuing him thither; in this caſe the Priſoner muſt be carried to the Gaole of the County where he is taken, and not to the Gaole of the other County: And if a *Conſtable* be coming to arreſt Affrayors, and they fly into another County, and he purſue and take them there, in this caſe he muſt bring them before a Juſtice of Peace of the ſame County where they are taken; where the Officer can doe no more than a private man: But if the flight be only into a priviledged, or other place in the ſame

Numb. 11. *Freſh purſuit* *Pl.* 37. *Dalt. J. Peace.* 23. *Arreſt out of the Officers precinct.* *To what Gaol a Priſoner may be carried.* *Numb.* 12. *Dalton J. P.* 297. 298.

same County; in this case the Officer may in his fresh pursuit thither take him, and dispose of him as an Officer, and as if he took him within the limits of his own Parish. And if a *Constable* arrest a man upon a Warrant from a Justice of Peace, and after the arrest, the party (of his own wrong) getteth away and flyeth into another County; in this case the Officer may pursue him and take him there, and bring him back to the same Justice of Peace from whom the Warrant came. Thirteenthly, It is dangerous to oppose or hinder these Officers in the doing and execution of their office: For to kill any one of these officers in the doing of his office, is wilfull murder, and causeth unavoydable death; or to beat or wound any such Officer, in the doing of his office, is a great Trespass to be recompenced with great Dammages: And otherwise to abuse any such Officer, in the doing of his office, is a great Misdemeanour, that may cause the offender to be bound to the good Behaviour. And if the party that is to be arrested shall make resistance, make an assault upon the Officer, or labour to get away, the Officer may justifie the beating, yea and the wounding of him also, or he may imprison him in the Stocks for the same. But upon a Warrant of a Justice of Peace, for the Peace or good behaviour; if the party resist or flye before he be arrested, it is said the Officer cannot justifie the beating of him; yet if the Officer please he may soon arrest him, for if he be a known Officer, and doe but say to the Party: *I arrest you in the name of the Keepers*

Nmb. 13. *Resisting an Officer.* *Coo.* 4.40.9.96. *Broo. Tres.* 296. 21 H. 7. 39. *Lamb. J.P.* 29. 298. *Dalt. J.P.* 297. *Murder.* *Trespasse.* *Good behaviour.* *Beating.* *Stocks.* *Arrest.*

pers of the libertie of England, albeit he never lay hands upon him; this is an Arreſt in Law. And if a Warrant be ſent to any of theſe Officers to Arreſt one Indicted of Fellony, he may juſtifie the killing of the party, if he cannot otherwiſe take him, or being taken, if he reſiſt and fly when he is taken. Fourteenthly, Where any of theſe Officers hath Arreſted a man, and hath power to impriſon him, it is held that he may not impriſon him in his own houſe, or in any other place but the common priſon, and the priſon alſo of the ſame County; for he may not carry him to the Gaol of another County, except it be in ſome ſpeciall Caſe, as where one Gaol doth ſerve for divers Counties, or the like; and yet upon reſonable requeſt, as becauſe it is night, or becauſe the Officer doth want ſtrength enough to carry him to the Goal or to the Juſtice, or becauſe he doth fear a Reſcue will be made upon him, or the like; in theſe Caſes the Officer may put the party in the Stocks, and keep him there for a reaſonable time, *viz.* untill the morning, if it be at night, or untill he can be conveniently provided for ſtrength and ayd to carry him to priſon, or to the Juſtice of Peace. But ſome ſay that an Officer may keep a Priſoner in the Officers own, or in another mans houſe, for a time convenient, and juſtifie it; whereof others much doubt: And therefore the ſafe way is to keep him in the Stocks, or carry him to Priſon. Fifteenthly, If the priſoner put in the Stocks be taken for Fellony or ſuſpicion of Fellony; in this caſe the Officer may

And ſo was the opinion of the Lord Keeper, & of the Lord Chief Juſtice 5. Car. Murder juſtifiable. *Numb. 14. Fitz. Cor. 61. 288. 328. When an Officer may impriſon a man in another place then the common Priſon. Fitz. Barre. 202. 20 E. 4. 6. 10 Ed. 4. 17. 22 Ed. 4. 35. 3 H. 4. 9. Kelw. 45. 11 E. 4. 7. Stocks. Lamb. J. P. 2. cap. 3. Numb. 15. How an Officer may uſe a Priſoner.*

lock the Stocks; and if need be, he may al-
Dalt. J.P.300. ſo put Irons upon the Priſoner. And if the Officer be to convey him to the Gaol, or to the Juſtice of Peace, he may pinion him, or otherwiſe make him ſure, that he ſhall not
Numb. 16. eſcape. Sixteenthly, If a private man, that is
10 Ed. 4. 17. no Officer, take another man for Fellony, or
Fitz. Office of J. P. 201. ſuſpicion of Fellony, within the Precinct of any of theſe Officers, and bring and deliver the Priſoner to the Officer of the place: in this caſe the Officer is bound to ſee the Priſoner ſafely conveyed to the Gaol: for if he ſuffer him to eſcape, he muſt anſwer for him:
Eſcape. And ſo alſo it is, if there be no Officer in the place where the Fellon is taken, and the party carry him and deliver him to the Officer of the next place: for it ſeems this Officer alſo in this caſe, is bound to look to him at his perill.

Numb. 17. Seventeenthly, As touching the execution
How far theſe Officers are bound to obey the Warrants of the Juſtice of the Peace. of the Warrant of Juſtices of the Peace, theſe things are to be known. 1. In all caſes, where any Warrant is ſent from any Juſtice of Peace, to any of theſe Officers, touching any matter whatſoever, concerning the Office of the Juſtice of Peace; it ſeems he is bound to
31 H. 8. 9, 6. execute it: And therefore it ſeems, that in all
See the Conſtables Oath, Kytch. 47. caſes where any Statute doth enable a Juſtice of Peace to apprehend any Perſon to be brought before him, or to commit any perſon to the Gaol, as in the caſes of thoſe that keep unlawfull Games in their houſes, or haunt ſuch houſes, or in the caſe of men that ſhoot in, or carry Gunns, or the like; That in all theſe caſes the Juſtices of Peace are to command theſe Officers, and they are to obey them.

2. Theſe

2. Theſe Officers muſt with all reſpect, receive the Warrants of the Juſtice of Peace: for if any Warrant be ſent from a Juſtice of Peace, to any one of theſe Officers, and he ſhall ſhew any neglect or contempt of it, as by caſting it into the dyrt, &c. or doe not with all care, ſecrecy and diligence excecute the ſame; theſe are miſdemeanors puniſhable: and for either of theſe miſdemeanors, the party offending may either be bound to the good behavior, or be Indicted and fined. And by the Statute of 27 *H.* 8. *cap.* 5. there is a ſpeciall charge laid upon the officers, within the Counties of *Wales*, That they be carefull to execute the Warrants of the Juſtices of the Peace there.

How they muſt receive and execute the Warrants of the Juſtices.

Dalt. J.P. 291.

3. Let him then conſider what he hath to doe: For howſoever this be true that he is not bound to, nor may he diſpute the authority of the Juſtice of Peace, and whether his Warrant be lawfull or not. For if the Juſtice miſtake, and goe beyond his authority in the manner of proceeding in a thing, wherein for the matter he hath Conuſance; As if he ſend a Warrant to him to arreſt any man for the Peace or good behaviour, without any cauſe; or to take a man for a Fellony when none is done; yet in theſe and ſuch like caſes the Officer is bound to execute it, and he ſhall be excuſed therein. But if the thing whereabout the Warrant is, be ſuch a matter as is out of the juriſdiction of the Juſtice of Peace, and wherein he is no judg; As if he ſend his Warrant to the *Conſtable*, to levy of the goods of *J. S.* 10.l. Debt, which he doth owe to him, or owe to another, and all this appeareth upon the Warrant it ſelf;

That in this and ſuch like caſes, it is agreed, That the Officer may refuſe to execute it, and may (not without danger) obey it. And truly to me it ſeems neceſſary we diſtinguiſh again between things apparent, and things concealed, and between leſſer and more notorious miſtake: and it is reaſonable to affirm, that if the miſtake and error of the Juſtice of Peace be ſet down in the Warrant and be groſſe and notorious; As if he ſend a Warrant to levy of a man 10.l. becauſe he hath ſworn an Oath; Or ſend his Warrant to one of theſe Officers, to command him to ſell the one half of the Goods of a man convict before him for ſwearing. 6. Oaths, when perhaps theſe Goods may be worth 100.l. or he ſend a verball Warrant only, to one that is abſent and out of his preſence; or ſend his Warrant to the *Conſtable* of the Pariſh of *Dale*, as *Conſtable* of *Dale*, to levy a forfeiture upon an offender, for an offence in *Sale*, out of his Precinct, or ſend his Warrant to a *Conſtable*, to carry *J. S.* to Gaol, becauſe he will not pay him a Debt he doth owe him; That in theſe and ſuch like caſes, the *Conſtable* is not bound to obey him, or execute it; nor ſhall he be excuſed if he doe it. But if the Juſtice of Peace, where he hath power to ſend a man to Priſon after ten dayes, give Warrant to ſend him to priſon before the ten dayes be out: Or if by an Act of Parliament, he is directed to ſend a Warrant under his hand and ſeal, ſend it only under his hand, or *contra*: And where he is to ſend it to the *Conſtables* and *Church-Wardens*, he ſend is to the *Conſtables* or *Church-Wardens*;

wardens; or on the other ſide, and in ſuch like petit miſtakes, it ſeems reaſonable to me the Officer ſhould be excuſed, if he doe execute it; for it is a very hard thing to require of him an exact knowledge of the many Acts of Parliament, ſo variouſly and incertainly penned herein, as belong to his Office; and he is in danger to be puniſhed if he doe not execute the Juſtice of Peace Warrants. So that my adviſe herein to the Officer is, to conſider well of the Warrant; and if he finde the thing to be done, nothing but what is ordinary, and hath been uſed to be done by theſe Officers, he is to doe it: but if it be to doe any thing unuſuall, new, ſtrange, and extraordinary, to be well adviſed e're he doe it. *Coo.* 10. 76. 6. 54. 14 *H.* 8. 16. *Broo. F. Imp.* 8.

And if a Juſtice of Peace ſend a generall Warrant to an Officer, to carry *I. S.* to Gaol, or to bring him before him, and expreſs no cauſe why, it ſeems to me reaſonable in both theſe caſes, the Officer in the doing hereof is excuſable. But if the Juſtice have not good cauſe for it, he may be ſued for it: And ſo perhaps he may be, though he have cauſe for the not expreſſing of it within his Warrant.

If this Officer doe arreſt any man under pretence of a Warrant, let him be ſure he have the Warrant firſt. For if the Officer firſt arreſt, and bring the man to the Juſtice, and then get a Warrant to doe it, this will not make the arreſt lawfull. 5. A Warrant of a Juſtice of Peace by word of mouth, is as good in ſome Caſes as a Warrant by writing: As if a Ryot, or other breach of the Peace, be in *Warrant.*

his presence, he may by word of mouth command the Officers, or any other, to arrest the offendors, to finde Sureties of the good Behaviour in the first, or Peace in the last Case; and if they refuse to put in Sureties, he may by word of mouth command to convey them to the Gaole. But in other Cases he cannot give warrant to an Officer that is absent and out of his presence; and if he send a Warrant by Message only to an Officer to arrest a man and carry him to Gaole, the Constable may refuse to doe it. 6. If any Warrant come from a Justice of Peace to one of these Officers, to doe a thing, the Officer himself must doe it, and he cannot by word or writing make a Deputy, or command another to doe it, but he may call what ayde he will. 7. In the execution of these Warrants, he is to take great care that he follow the contents of his Warrant, and not to exceed it, for that may be dangerous. And yet this must be understood, that when any thing is commanded, all that doth necessarily conduce to the doing of that thing, and without which it cannot be done, is commanded also; and therefore all that, and so much, may be done, albeit it be not set down in expres words in the Warrant. And it is said that if a Warrant be made to *J. S.* and *J. K.* to arrest *J. D.* In this Case either of them alone may make the Arrest. 8. A Constable or other sworn or known Officer (albeit he be not known to the party arrested) needs not to shew his Warrant to the man when he comes to serve it upon him, although he demand it, but otherwise it is when he that is no Officer shall

Deputy.

Coo. 9.69.6.54.
8 Ed. 4. 15.
Dalt. J. P. 28.

ſhall arreſt a man upon a Juſtice of Peace warrant, for he muſt ſhew his warrant, and the ſworn or known Officer alſo muſt upon the arreſt of the party declare the contents of the Warrant to him. 9. A Conſtable or the like Officer giveth ſufficient notice what he is, when he ſaith to the Party, *I arreſt you in the name of the Keepers of the Liberty of* England *&c.* for this is an arreſt in Law, and therefore in this caſe the party arreſted, at his perill, muſt obey, though he know him not to be an Officer; for if he have no lawfull Warrant, the party grieved may hereupon have his Action of falſe impriſonment againſt him. 10. The Officer muſt take care that he take the very party named in the Warrant, and not another; for if a Warrant be intended againſt *J. S.* (who is the Delinquent) but it be ſent againſt *J. D.* another man; in this Caſe the Officer cannot arreſt *J. S.* but muſt arreſt *J. D.* 11. If the Proſecutor for the Peace or good Behaviour, after the Warrant ſent, agree, yet the Officer muſt execute his Warrant.

Coo. 9. 69.

Arreſt, what it is.

18. When any one of theſe Officers hath arreſted any man for any cauſe, the Officer muſt take great heed that he doe keep the Priſoner ſafe, and not ſuffer him to eſcape, eſpecially if the arreſt be for matter of Fellony; for in this Caſe, if he willingly ſuffer him to eſcape, this offence is Fellony in the Officer. And be the cauſe of the Arreſt whatſoever it will, if the Officer doe willingly or unwillingly, and negligently ſuffer him to eſcape, and doe not take him again, he ſhall be fined for it according to his offence, by the diſcreti-

Numb. 18.

Dalt. J. P. 292.

Eſcape.

11 H. 4. 25. *Stamf.* 35. on of those that shall be Judges of the cause; for Officers in these Cases may require what help they will. And lest any Officer should flatter himself, that he may escape with an easie Fine; he is to know that the Judges of his fault, may set his Fine equall to the value of all his goods, if his offence so require. And if an Officer take a man upon a Warrant from a Justice of Peace, and then letteth him goe, and taketh his word that he shall come again to him such a day, to goe to the Justice of Peace, and the party cometh not; this is an escape in the Officer, for which he may be punished, and the Officer (as it seems) cannot now arrest him upon this Warrant. But if the party in this, or any such like Case, escape of his own wrong, without the consent of the Officer, the Officer in a fresh pursuit may take him again, albeit he be out of his sight and out of his Precinct, as is before shewed. Nineteenthly, The Gaoler must receive the Prisoner offered unto him, freely, & without taking any thing of them that bring him. But it is said, that a Gaoler is not bound to receive any Prisoner from an officer immediately, but by a Justice of Peace Warrant. But it is not safe for a Gaoler to refuse such a Prisoner; for if a *Constable* may, & in some cases must, & is bound by the duty of his place, to bring some Offenders to Gaol without any Warrant of a Justice of Peace, (as he is) the Gaoler is bound to receive them so brought. And if a man be arrested for Felony, and the *Constable* carry him to the Gaol, and the Gaoler will not receive him, it is said the *Constable* must bring him back to the Town where he

Arrest.

Numb. 19. *Duty of the Gaoler.*

4 *Ed.* 3. 10. 11 *Ed.* 4. 7. *Bro. Faux. Impr.* 24. 25. 27.

was

was taken, and that the Town muſt be at the charges of keeping him, untill the next Gaol-delivery. But howſoever the Officer muſt look to him for fear of an eſcape: and in this caſe the beſt way for the Officer, is, to get a Juſtice of Peace his Warrant to ſend the Priſoner to the Gaol, and hereupon the Gaoler doubtleſſe will receive him. Twentiethly, Theſe Officers, albeit they have power, in divers caſes before and after ſhewed to impriſon a man; yet have they not power in any caſe to deliver a man impriſoned again. And therefore if a *Conſtable* in caſe of an Affray commit an Affrayor to the Priſon, the *Conſtable* may not afterward ſet him at liberty again: Or if he take a man upon a ſuſpicion of Fellony and he doth afterwards perceive ſome cauſe to make him believe the party apprehended is Innocent in the matter; yet may not the *Conſtable* deliver him, but he muſt continue in Priſon untill he may be delivered by order of Law, either at the Seſſions or otherwiſe, as the cauſe ſhall be. And yet if an Officer ſhall only put the Affrayors apart into the Stocks, or into ſome Houſe or Room (as it ſeems he may) untill the heat be paſt; in this caſe the Officer of his own head may ſet them at liberty again. 21. Every perſon that ſhall be ſent to Gaol by a Juſtice of Peace, having means and ability of his own, muſt bear his own charges to be levyed of his Goods and Chattels by the *Conſtable* upon a Warrant to him, ſent by a Juſtice of Peace; and not having goods, then to be born by the Pariſh where the Fellon is apprehended, by an indifferent

In what caſe an Officer may ſet a Priſoner at liberty again. *Fitz. Office of J. P. 130.*

Allowance. Charge of a Priſoner.

different Assessment to be made by the *Constables* and *Church-wardens*, and two or more of the Inhabitants, by allowance of a Justice of Peace. 22. If any of these Officers shall be sued for any thing done by them in the execution of their Offices, or if any suit be brought against their Deputies, or any others which in their aide or assistance, or by their commandement, shall doe any thing touching their Offices, this Action must be laid in the County where the thing was done; otherwise the Defendant shall be found *not guilty*, howsoever the case be: And in all Actions brought against them for the causes aforesaid, they need not plead the speciall matter, but may plead the generall issue, and give the speciall matter in evidence. And if the Verdict upon triall pass with the Officer, or the Plantiff be *Nonsuit*, or suffer his Action to be discontinued, the Defendant shall recover his double costs susteined in the said Suit. 23. These Officers, & all the rest hereafter named, must take care that they take nothing of any man for any work they do in the execution of their office, more than is allowed them and is their due; for this offence in them is extortion, and punishable by Fine and Imprisonment. 24. These Officers, as well as other, are to give an account to the Parishoners of the monies they doe any way receive: and this, if they refuse to doe, they may no doubt be compelled unto by the Justices of the Peace, at their Quarter-Sessions. 25. And as touching the disbursments of these Officers about the execution of their Office, as for the carriage of Prisoners to Gaol, the conveying of Rogues, and

Numb. 20. *What Pleas these Officers shall have being sued.* 21 *Jac.* 12. 7 *Jac.* 5.

Costs.

Extortion.

Account.

Numb. 21 *Expences and disbursments of Officers.*

and the like, whereby any ſpeciall Act of Parliament they are to be allowed it, or any thing towards it, and the means of recovering it is ſet down; there they ſhall have the ſame allowance; and they muſt purſue that means for the recovery of it. And ſo in all caſes where the offender is ſent to Goal by a Juſtice, there is a means appointed by the Statute of 3 *Jac.* 10. by the ſale of the offendors Goods, or a Rate by the Pariſh as before. But in other caſes alſo, it ſeems very reaſonable that they ſhould be allowed it again from the Pariſh: and if the Pariſh will not allow it, perhaps the Juſtices of Peace, upon the complaint of the Officer, may deviſe ſome way, and doubtleſſe they will doe what they can to relieve him. And therefore he is to call his Neighbours, or as many as will come, and with them, or without them, if they refuſe make an equall Rate ſufficient to pay all his neceſſary charges and expences in the doing of his Office; and it will be good to get a Juſtice hand to it, if he can: and if any refuſe to pay it, let him complain to the Juſtice of Peace, who will either binde him that refuſeth to the Quarter-Seſſions, or finde ſome other way to bring him to reaſon. But as touching their ordinary expences, for meat, drink, &c. in their travells; for this it ſeems, there is no remedy, but that the Officers themſelves muſt bear it: Howbeit in theſe things the cuſtome of the place is to be continued.

SECT.

SECT. 2.

Of the Office of the High *and* Petit-Constable, *about the Peace.*

THe authority and duty of all these Officers, *High-Constable*, and *Petit-Constable*, by the Common-Law, consisteth much about the Peace of the Common-wealth; and herein in three things. First, In foreseeing that nothing be done that tendeth either directly or by means, to the breach of the Peace. Secondly, in quieting or pacifying those that are occupied in the breach of the Peace. And thirdly, In punishing such as have already broken the Peace.

Breach of the Peace, what it is.

And here, lest any man should be deceived in the not understanding what is meant by the breach of the Peace, it must be known, That by the breach of the Peace is to be understood, not only that fighting which we commonly call the breach of the Peace, but also that every Murther, Rape, Man-slaughter, and other Fellony whatsoever, and every Affraying or putting in fear the People of this Common-wealth, whether it be by unlawfull wearing of Armour, or by assembling of people to doe any unlawfull act, are taken to be disturbances and breaches of the Peace.

Numb. 1. For the better preventing of the breach of the Peace, and that nothing be done against it. First, Any one of these Officers may, without

out Warrant from a Juſtice of Peace, *ex officio*, and of his own authority, by night or day, arreſt ſuſpected perſons, ſtrangers, and others, that walk in the night, and ſleep in the day, or haunt Bawdy-houſes, or other ſuſpicious places; or ſhall doe, or commit any outrage or miſdemeanor: For if a *Conſtable* be informed of a lewd man and woman that are together and about to be incontinent and lewd, he may take with him ſo many of his neighbours as he will, and arreſt the ſame man and woman, or any ſuch diſorderly perſon, and bring them to a Juſtice of Peace to be bound to the good behaviour. 2. And the better to apprehend ſuch perſons, they are to ſee and take care that Watch and Ward be duely kept. And for this, theſe things are to be known. 1. None but Inhabitants of the ſame Town are compellable to Watch and Ward. 2. It muſt be by men of diſcretion, able bodies, and ſufficiently armed. 3. It muſt be by turn, or by the houſe, according to the cuſtome of the place. 4. The *Conſtable*, *ex officio*, is to order it, and he may enlarge it as there is occaſion; but he cannot change the courſe of it at his pleaſure, and make ſome Watch, and excuſe others. 5. If any neglect or refuſe to doe his duty, the *Conſtable* may preſent this default at the Aſſizes or Seſſions, or complain of it to a Juſtice of Peace: And ſome hold the *Conſtable* may put him in the Stocks for his contempt. 6. This Watch is from *Aſſention* to *Michaelmas*, and muſt be from Sun to Sun; And the Warding then (in congruity of reaſon) muſt be the reſt of the twenty and four hours day. 7. Theſe Watch and

Againſt ſuſpected perſons, Nightwalkers and the like.
Stat. of Winchester 13 *Ed.* 1. 4. 5 *Ed.* 5. 14. 13 *H.* 7. 10. *Fitz. Office. J. P.* 200. 1 *H.* 7. 7 *Bro. Treſ.* 432.
Bawdrie.
Numb. 2. *Watch & Ward Kitch.* 47. 48. 49.

and Wardmen, are to pose all men, to arrest and secure till morning Rogues and others suspicious, and them to bring to a Justice of Peace to be examined: Or, if they will, they may deliver them to the *Constable*, who must take care of them. And if any resist them, and goe away, they may send *Hue* and *Cry* after them: and upon this any man may arrest them. 8. For default of this Watch and Ward the Township may be punished. So that all that the *Constable* hath to doe in this case is, to appoint it in an orderly way, who when, and how it shall be done, and to see it be done; and if it be neglected to complain of it, and get it punished. The Watch-men thus appointed, may have from the *Constable* these or the like instructions, (*viz.*)

Dalt. J. P. 60. Winch. 13 Ed. 1. 4. 5 Ed. 3. 14. Hue and Cry.

Watchmans charge.

To keep the Peace amongst themselves; to continue their Watch diligently untill the Sun rising, without noyse & disturbance of the Inhabitants: That they abide and frequent the common passages; but so as they have regard also to all other places: That they examine all such persons as they shall see stirring, or shall passe by them, what they be? and whence they come? whether they goe; and the reason of their late travell, or being abroad? and if cause of suspicion be found in them, to stay them; if they obey not, but resist, to constrain them by force, and to beat them, if it cannot be avoyed, for resisting the Peace of the Nation; if they be too strong, or fly them, to levy *Hue* and *Cry* for the apprehending of them, and to set them in the Stocks untill the morning; and then to have them

them before ſome Juſtice of Peace, to be dealt withall according to Juſtice: To reſort to ſuch places where they behold any Candle or fire-light, to know the cauſe; or where they here any noyſe of People eſpecially in Taverns, Innes, and Ale-houſes; and finding any there, to admoniſh them to depart; and refuſing, to compell them, as aforeſaid. And if any unknown Perſon, horſ-man or foot-man, ſhall paſs by them, or that ſhall drive any Cattel, Horſe, or the like; or that ſhall carry any burthen on Horſ-back, Cart, or otherwiſe, to ſtay them till the morning to juſtifie themſelves, unleſs they can render good account, both of themſelves, their company, and carriage: And if any Poſt come by them, to know what number they have, leſt Offenders alſo paſs under that pretence. And the *Conſtables* are alſo to be aiding and aſſiſting to theſe Watchmen upon all occaſions.

3. In an action of Treſpaſs of an aſſult and battery, the Defendant pleaded, that there were divers Felonies committed in thoſe parts where he dwelt; and he being watching in his houſe came into the high-ſtreet, where the Plantiff was at eleven of the clock in the night; and the Defendant came unto him and laid his hands in peaceable manner upon him to ſee his face, and when he perceived he was a true man he left him and departed. And this was allowed to be a good juſtification; for by the Statute of *Wincheſter* Watchmen may arreſt Night-walkers, and may appoſe them from whence they come, and what they be? Alſo any other man may arreſt Night-walkers, becauſe *Numb.* 3. *Night-walkers*

cause it is for the good of the Common-wealth.

Numb. 4. *Against persons that ride armed or make Insurrection.* 2 *Ed.* 3. 3. 2 *R.* 2. 13. *Fitz. J.P.* 202.

4. If any Person whatsoever, except the *Keepers of the Liberties*, Servants and Ministers of Justice in executing Precepts or their Offices, or such as shall assist them, and except it be in pursuit upon *Hue* and *Cry* made to keep the Peace (and that in places where Acts against the Peace doe happen) shall be so bold as to goe or ride armed by night or by day, as to carry any Dags or Pistols; or to be apparrelled with privy Coats or Doublets in any Faires, Markets, or any other place to terrify the people; And if any doe so, or if any great Assembly, Rior, or Rumor be made in any outragious manner, in nature of an insurrection. In the first of these Cases the *high-Constable* or *petty-Constable* may, and must take their Armor from them, and seize it to the use of the *Keepers of the Libertyes*, and arrest the parties, and carry them to a Justice of Peace, or (as it seems) to Gaol, there to abide during the pleasure of *the Keepers of the Liberties*. And in the last of these Cases, they may and must take with them the power of the County, and suppress them, and arrest the Offendors, and carry them to a Justice of Peace, or commit them to Prison till they put in Sureties for their good behaviour.

Seize Armes. *Arrest.* *Power of the County.* *Ayde.*

Numb. 5. *Against him that doth threaten Murder.* *Fitz. Bar.* 202. 2 *Ed.* 4. 36. *per. Iriam*, 3 *H.* 4. 9.

5. And if one man doe threaten to kill another, and especially if he lye in wait so to doe, and he who is so threatened doth complain to any one of these Officers (being Officers of the place wherein the party threatning is abiding or doth dwell) and intreat him to arrest the party to finde Sureties of the Peace: In this

this case the Officer may and must arrest him forthwith to finde Sureties; and therefore carry him before a Justice of Peace; or being there, to get Sureties, the Officer may presently carry him to Gaol. But some say that this threatning must be in the hearing of the Constable, or else that he cannot doe it. But if the thing be true, it seems in both cases alike: And in such Cases the *Constable*, if the party have no Sureties ready, may carry him to Gaole, of his own Authority.

2. As these Officers are to take care to prevent the breach of the Peace before it be; So are they to take care to suppress and alay it when it is: And therefore in case of Affrayes, they are to labour carefully and speedily to appease them; wherein these things are to be known. 1. If any of these Officers shall see a man presently bent, and in fury going about to breake the Peace, as by using of hot words, or the like, by which an Affray is like to grow, he may, and must straitly charge and command the Persons at debate, in the name of *the Keepers of the Liberties of England*, to keep the Peace, &c. and to avoyd upon pain of imprisonment: And if there be nothing but words between the parties, it seemes the *Constable* can doe no more but this, and may not lay hands on them, unless they goe further. But 2. If the parties at variance will not hereupon obey the Officer, and depart, but goe on further to threaten to beat, hurt, or kill, and especially if either of them draw weapon, or give, or attempt to give any blow; then the Officer may, and must keep them asunder by force; and

Numb. 6. To suppress the breach thereof in case of Affrayors.
Fitz. J. P. 130.
Lamb. J. P. 173.
Dalt J. P. 28. 29.
22 Ed. 4. 35.
21 H. 7. 21.
13. H. 7. 10.

Ayde. for that purpoſe, if there be need, may uſe his his own weapon, amd may call and require o-
21 H. 7. 21. thers to help him, who at their perils muſt doe
Fitz. J.P.130. ſo. 3. And if the affrayors ſhall ſtill pro-
ceed, and goe from words to blows, the Officer and his aſſiſtants may by force apprehend the Affrayors, and cauſe them to render themſelves, and put them in the Stocks, or in ſome other Priſon or place untill the heat be paſt; or if it be in the night, untill the morning; or they may carry them unto the next Gaole, or to a Juſtice of Peace. 4. If the Affray be great and dange ous, the Officers may make Proclamation that the Affrayors ſhall depart; and if they refuſe or reſiſt, they may commit them to pri-
Impriſonment. ſon in the Stocks, or other fit place, till the heat be over, or that they can carry them to a Juſtice to finde Sureties, eſpecially if any man
21 H. 7. 21. be hurt in the Affray. 5. If the Officer, or
Lamb J. P. any of his Aſſiſtants in this ſervice ſhall be hurt
141. 142. by the Affrayors, they ſhall have good remedy againſt the Affrayors. But if the Affrayors be hurt by the officers or their Aſſiſtants, in doing of their duty herein, the Affrayors ſhall have no remedy againſt them: For if the Affrayors
Officer may ſhall reſiſt, and refuſe to obey the Officer; In
beat, &c. this caſe he may beat or wound them and Juſtifie the doing thereof. And yet if another man (that is no Officer) of his own head ſhall take upon him to part Affrayors (as he may) and in the parting of them he hurt one of them; In this Caſe he that is hurt ſhall have an acti-
of Treſpaſs againſt him that did hurt him. 6. If he that doth make the Affray, when he doth ſee the Officer coming to arreſt him,

ſhall

ſhall flye into a houſe, the Officer may in the freſh purſuit of him, break open the dores upon him to take him, and juſtifie it; and if he flie out of the Officers libery into another *Hundred* or *Tything*, or into a Franchiſe in the ſame County, when he ſeeth the Officer coming to arreſt him, the Officer may upon a freſh purſuit follow him, and take him there; and ſo may he alſo where he doth flie out of one County into another: But in this laſt caſe, when the Officer doth apprehend the party in another County, he can doe no more with him than a private man may doe (*viz.*) carry him before ſome Juſtice of the Peace of that County wherein he is taken, to cauſe him there to finde Sureties for the Peace. 7. If two men be fighting together, in either of their own or another mans houſe (the dores being ſhut) in this caſe the Officer, if he cannot otherwiſe get in, may break open the dores, to get in to keep the Peace, albeit neither of the parties be hurt. 8. In theſe caſes before, the Officer may and ought to carry them before ſome Juſtice of the Peace, to finde Sureties for the Peace, becauſe they have broken the Peace already, and are meet to be bound that they ſhall not break it again. 9. It is ſaid that the *Conſtable* carrying the Afrayors to Gaole, may himſelf take bond of them, to the uſe of *the Keepers of the Liberty*, for the keeping of the Peace (the which bond he is to certifie into the Exchequer or Chancery, from whence the Proceſs is to be made if the Peace be broken) and thereupon deliver them; and that if they will not finde

Breaking open of a houſe, law-full. *Fitz. J.P.130.* *Dalt. J. P. 28. 29.* *Lamb. J. P. 143. 144.* *Arreſt out of his Precinct.* *Fitz. J.P.130.* 9 *Ed.* 4 26. 10 *Ed.* 4. 17.

finde Sureties, the *Constable* may imprison them untill they doe finde Sureties: But this is not used any where; It is therefore safe to carry them to a Justice of Peace. 10. When the Officer doth carry the Affrayor to Prison, or to a Justice of Peace, so that he is bound over to appear at the Quarter-Sessions, or Goal-delivery to answer it; in these Cases the Officer must see then that he appear at the next Quarter-Sessions of the Peace, or the next Goale-delivery, there to object against the Affrayor, as there shall be cause.

21 H. 7. 21. 5 H. 7. 7. 6. *Lamb. J. P.* 14

11. If one make an assault and affray upon the Officer himself, he may take the Party & carry him to a Justice of Peace or to prison, as he may in case of an Affray done upon another man.

Fitz. J. P. 14.

12. If an Affray be made in the presence of the *Constable*, and he doe not his endeavor to pacifie it, he may be fined for it at the Sessions, according to the discretion of the Justices: But if the Affray be in another place, and notice be given thereof to the *Constable*, and he doe not his best to pacifie it, it is said he shall not be fined for this: but let this be doubted, and *Constables* advised not to trust to it, but to doe their utmost to suppress all Affrays and keep the publique Peace every where within their Precincts. And in this Case every private man, being present, and during the time of the Affray, may and must doe his best to quench and alay it. But he may not hurt or imprison the Affrayors unless some man be hurt in the Affray.

Numb. 7.

After the peace is broken.

3. For the duty of these Officers after the Peace is broken. If the Peace be but newly and

and freſhly broken by an Affray, & the officer have notice of it, it hath been ſaid he may arreſt the parties, and carry them before a Juſtice of Peace, to finde Surety for the Peace, becauſe they have broken the ſame already, and are meet to be bound that they ſhall not thenceforth break it again: But it ſeems this is not Law at this day, for it hath been reſolved that a Conſtable *ex Officio*, and without a Warrant from a Juſtice of Peace, may not impriſon any man for an aſſault or affray, except he be preſent at the affray himſelf. *In Sharrets Caſe, Hil. 37 Eliz. C B.* But in all Caſes where an Affray is paſt, this Officer may by Warrant from a Juſtice of Peace, take and impriſon the Affrayors, and in caſe where one is hurt in the Affray, and thereby in peril of death, he may *ex Officio*, and without any ſuch Warrant arreſt and impriſon the Affrayors: For in this Caſe when one hath received a dangerous hurt in the affray, the officer after the Affray is paſt, may and muſt arreſt and impriſon him that did the hurt till he give Surety, to appear at the next Gaol-delivery; or otherwiſe he may, with leſs labor than to carry him to Gaole, carry him to a Juſtice of Peace, who ought to take ſuch order as the party may give ſuch Surety: For the Fact may fall out to be Fellony, if he that is hurt happen to dye within a year and a day next after the hurt done. And if the Officer doe not ſo, or ſuffer ſuch a Perſon to eſcape, he may be deeply fined for it. And in this Caſe alſo it is ſaid, that the officer may, after he hath arreſted him that gave the wound, keep him a while in ſome

Bro. Faux. Imp. 6. Fitz. J.P. 131. Dalt J.P. 29. 38 Ed. 3. 6. 12. Aſſ. 56. 10 H. 7. 20. Poult de pace 13.

Arreſt.

other place out of the common Prison untill it may be known whether the party will live or not.

Numb. 6. Against persons committing Felony, or suspect of Fellony.

If Fellons or Murderers be in the Village, and these Officers of the Village have notice of them; it is their duty to gather men together, and to apprehend them: And if any Fellon be taken, it is the Constables office to see him conveyed safely to Gaol: And any other man, as well as an Officer may arrest and keep in hold such a man as he doth know to have committed any Fellony. And as touching persons suspect of Fellony, it is said, That if any man doth suspect any other man of any Fellony that he hath committed, and doe declare the same to any one of these Officers, that thereupon he may, if the party suspect be within the limits of his Office, arrest and bring him (& with him he shall doe well to bring the other party that did suspect him) to the Justice of Peace to be examined. But as touching the arresting of another man upon the suspicion of a third Person, it seems the Law is otherwise: For it is the opinion of the whole Court, in the 17 *Ed.* 4. 5. and in 5 *H.* 7. 4. That one cannot imprison another man upon the suspicion of a third man for Fellony, unless he himself have some cause of suspicion also. And that one man, albeit he be an Officer, cannot justifie the imprisonment of another man suspected by a third man, and at his commandement that doth suspect: And of this opinion was Mr. Justice *Bridgman*, and the whole Court of the Marches of *Wales*. And therefore it was held there, that if I suspect a man for Fellony, and give notice hereof to the Constable, that he cannot arrest him

Fitz. J. P. 201. 1 *R.* 3. 3. *Lamb. Office of Const.* 17.

11 *Ed.* 4. 4. *Bro. Faux. Impr.* 24.

him upon my ſuſpicion. And yet when I have arreſted him upon mine own ſuſpicion, and delivered him to the Conſtable, that in this caſe the *Conſtable* muſt look to him at his peril. And if the Conſtable from this doe receive a ſuſpicion of him (as he may) upon a fame or any flight report; I think it reaſonable and juſtifiable in him to arreſt him. But as touching this matter, and for the cleering of this point, theſe things are to be known.

1. That any one of theſe Officers, or any other private perſon whatſoever, having cauſe to ſuſpect another of a Felony committed by Murder, or Theft, may himſelf arreſt and apprehend ſuch perſon ſuſpect; but herein he (whoſoever he be) muſt take heed to three things. 1. That there be a Fellony committed, or at leaſt confidently reported to be committed; for otherwiſe there can be no good cauſe to ſuſpect any man. 2. That there be ſome cauſe to ſuſpect the party arreſted more than another. 3. That after the arreſt, the party that doth arreſt him, doth carry him to a Juſtice of Peace or to the common Gaole, to the end that the party accuſed may be Indicted or acquitted at the next Seſſions, &c. Or if it be a private man that doth make the arreſt, that he doe deliver the party arreſted to the Conſtables, &c. of the place.

9 *Ed.* 4. 26. 17 *Ed.* 4. 5. 20 *Ed.* 4. 6. *Bro. Faux. Impr.* 27.

2. Theſe, or any, or either of theſe, are held to be ſufficient cauſes of ſuſpicion: 1. That the perſon ſuſpect is Indicted for the ſame Fellony. 2. If the Fellony be a Murder; that he was preſent at the time of the Murder committed with a Sword drawn in his hand. 3. That the

Cauſes of ſuſpicion of a man for Fellony.

29 *Ed.* 3. 39. 9. 4 *H.* 7. 4. 7 *H.* 4. 35.

27 H. 8. 21.
14 H. 8. 16.
2 H. 7. 15.
11 Ed. 3. 44.
21 H. 7. 27.
Fitz. J.P. 201.
Numb. 9.

the perſon ſuſpect, is a perſon of evill name; or is a Vagarant in the Country where the Fellony was done. 4. If the Fellony be a Robbery, and the party ſuſpect is found with ſome part of the goods in his hands. 5. If one apprehended for the ſame Fellony, hath taken his oath upon a Book, that the party ſuſpect is one of the Fellons. 6. That it is the common fame and report of the Country, that the party ſuſpect did the fact. 7. If the party ſuſpect doth flie upon the Fellony committed. 8. If there be a *Hue* and *Cry*, out againſt the Fellon, and the perſon ſuſpect and apprehended, is ſuch a perſon as is deſcribed by the *Hue* and *Cry*; or if the Fellony be for ſtealing of Cattel, and the party ſuſpect is taken driving ſuch Cattel as are ſet forth by the *Hue* and *Cry* to be ſtoln: And yet hereby an honeſt man may be apprehended; for a *Hue* and *Cry* may be raiſed where no Fellony is done. But in this caſe he that raiſed it may be puniſhed, and he that doth arreſt the party is to be excuſed; or there may be no other cauſe to ſuſpect this man but the poſſeſſion of the goods, and he might come by them lawfully; howſoever this is cauſe enough to give him that doth arreſt ground of ſuſpicion. 9. If *J. S.* would have arreſted one that had robbed him, and the party ſuſpect forbid him, and ſaith he ſhall not arreſt him; this is ſufficient cauſe to make him to be ſuſpected for an acceſſary. And therefore in all theſe and ſuch like caſes a man may juſtifie the arreſting of the party ſuſpected.

Tryal. 3. What ſhall be ſaid a ſufficient cauſe of ſuſpicion, what not, & ſhal be tryed by the Judges.

4. It

4. It is the duty of theſe Officers, to doe their utmoſt indeavour, with all diligence, to finde out, and apprehend Fellons: And if there ſhall be herein any neglect found in them (eſpecially if it be for favour or reward) they may be grievouſly puniſhed. And for this cauſe they may, and they muſt after a Fellony is done, either by, or without the Warrant of ſome Juſtice of Peace, make diligent ſearch for him that did it, in all ſuch places within their Liberty as they ſhall underſtand to be likely to finde him in; for it is the chief part of their Office to repreſſe Fellony, and albeit it be a mans houſe he doth dwell in, which they doe ſuſpect the Fellon to be in, yet they may enter in there to ſearch; and if the owner of the houſe, upon requeſt, will not open his dores, it ſeems the Officer may break open the dores upon him to come in to ſearch, And ſo alſo it ſeems the Officer may ſearch for goods ſtoln, as he may for the Fellon himſelf that doth ſteal them; and if the Officer, upon ſearch, cannot finde the Fellon, it is his duty to raiſe a Hue and Cry and ſend him, directing it to theſe Officers, whoſe duty it is carefully to purſue them as ſoon as they receive them; and it is the duty of all other men, being called upon by Officers, and at the Cry of the Country to be ready to purſue and arreſt Fellons, and upon the Hue and Cry any man may arreſt him that is taken with the things (be he never ſo honeſt) and he may deliver him and the goods to the Conſtable of the Town to be kept ſafely.

Search.

Numb. 10.

Braking of a houſe open, law-full.

Hue and Cry.

5. If they be about to arreſt any man ſuſpected

Ayd.

spected of Fellony, they may require the aid and help of others, both to arrest and carry to prison the party suspected; and the parties required must in this case help them at their perill.

10 Ed. 4. 17. Fitz. J.P. 21.

6. If a private man arrest another man (as he may) upon his own suspicion, and then deliver him to the Constable of the place, he must then look to him that he suffer him not to escape, at his perill, but that he bring him, and the party with him that did arrest him, to a Justice of Peace, or that he bring the party arrested to the Gaole; for in this case the Constable may not refuse to take charge of a Fellon so brought unto him by another: And if there be no Constable of the place where the party is apprehended, and the party that doth arrest, doth bring the prisoner to the Constable of the next Parish, it seems this Constable, in this case, is bound to take charge of him at his perill.

Carrying of a Prisoner to Gaole.

Seizure of Goods. Fitz. J.P. 201. Numb. 11.

7. If a man flie for Fellonie, the Constable of the Village where his Goods are, must seize them, and keep them safe, and not part with any of them, but so much only as is needfull for the sustentation of the Prisoner, and if the goods be impaired, the Constable must answer for them; and therefore it will be his wisdom to take them by Inventory, and in the presence of honest neighbours.

8. An Action of Trespass was brought by a man for an Assault and Battery of his Servant, whereby he did lose his service three dayes, and the Defendant pleaded that *A* was robbed at midnight of Goods to the value of two pounds

pounds, whereupon the ſaid *A* came to the Conſtable, and prayed him to ſearch for the ſuſpicious perſons, and to apprehend and arreſt them; and accordingly he did ſearch, and found the ſame ſervant walking ſuſpiciouſly in the ſtreet in the night, and therefore he would have arreſted him, but the ſaid ſervant fled, and would not yeeld to the arreſt; and the Defendant, by the Conſtables commandement purſued and took him. This was adjudged a good Plea in Barre: For when a Felony is committed, the Conſtable, or any others, upon ſuſpicion of perſons that are ſuſpicious, may arreſt them; and if they will not yeeld to the arreſt, but aſſault him or them that doth arreſt him, they may juſtifie the beating of him, for that he doth reſiſt the Peace and Juſtice of the Common-wealth, when he doth forcibly ſtrive to flie, and not to be juſtified by it. If a *Hue* and *Cry* be levyed and purſued, that a Horſe of ſuch a colour or mark; ſo many Beaſts of ſuch a ſort, or age; or ſo many Sheep of ſuch a brand be ſtoln, and one is taken leading or driving of the ſaid Horſes, Beaſts, or Sheep: In this caſe it is lawfull for theſe Officers, or any other man, to ſtay and apprehend him; and if he that doth apprehend him be not an Officer, he may commit him to the Conſtable of the place where he is apprehended, and by him to be put in the Stocks, or ſafe kept until he be delivered by courſe of Law, though the party apprehended be not a man of evill name or fame, but a man of good credit: for ſeeing the Law hath by the *Hue* and *Cry* accuſed him, he muſt be by a courſe

Search.

Arreſt.

Beating juſtifiable.

Hue and Cry.

29 Ed. 3. 9.

Pulton de Pace 12. 5 H. 7. 4.

Numb. 12.

a course of Law again acquitted and discharged: And in this case, he that is so taken shall not have an Action of Trespass, Fals-imprisonment, or other remedy, against him that did apprehend him, or against the Constable to whom he was committed, albeit he be afterwards acquit of the Fellony. In an Action of Fals-imprisonment, the Defendant pleaded, That there was a Fellony done, and he suspected the Plaintiff to have done it; and therefore he arrested him: In this case this was held no good Plea; for he should have shewed some ground and cause of his suspicion. And in an Action of fals-imprisonment it is no Plea for the Defendant to plead, That it was told him, that the Plaintiff had brought the Cattel to the Town, and put them in a blinde corner, and that there was great cause of suspicion that the Plaintiff had stoln them, whereupon he did arrest him: for suspicion only, without a Fellony committed, is no cause to arrest another. And in an Action of false-imprisonment the Defendant pleaded, That *J. S.* was poysoned, and that the common voyce and fame of the Countrie was, That the Plaintiff had poysoned him; whereupon the Defendant apprehended the Plaintiff, and committed him to prison as was lawfull for him to doe. And this was adjudged a good Plea in Barre of the said Action; for common voyce and fame of the Country is cause of suspicion of Fellony when a Fellony is committed: but when there is no Fellony done, it seems this is not cause sufficient to warrant the arresting of such a person. And yet, as before it appeareth, the

Arrest.

27 *H.* 8. 13.

5 *H.* 7. 4.
3 *H.* 7. 15.
11 *Ed.* 4. 4.

the accuſation of a man (where no Fellony in truth is done) by *Hue* and *Cry*, is cauſe ſufficient to warrant the arreſting of ſuch a perſon as is deſcribed by the *Hue* and *Cry*. In an Action of Falſ-impriſonment the Defendant did plead, That before the impriſonment, *A. B.* was ſlain at *C.* and that the Plaintiff was in the company of thoſe who killed him, at the time of the Fellony committed, and the common voyce and fame of the Countrie at *C.* was, that the Plaintiff was party to the Fellony; whereupon the Defendant finding the Plaintiff at *C.* arreſted him for ſuſpicion of Folony, and committed him to the Sheriff, &c. and this was allowed a good and ſufficient Plea. *7 H. 4. 10. Dyer 276.*

9. If a man doe aſſault another in, or neer the high-way, to rob him, and he that doth make this aſſault, is taken and brought to the Conſtable of the place: In this caſe the Conſtable muſt take him to his ward, and carry him before a Juſtice of Peace to give ſureties for his good behaviour. In an Action of Treſpaſs of Aſſault and Battery, and Falſ-impriſonment the Defendant pleaded, That the Plaintiff lay in wait in a high-way, to rob ſuch perſons as travelled that way, and aſſaied to rob one *L.* and drew his ſword, and commanded the ſame *L.* to deliver his purſe, whereupon *L.* fled, and levyed *Hue* and *Cry* and this Defendant being travelling that way, purſued the Plaintiff, and took him, and committed him to the Conſtable to be put in the Stocks, who did it accordingly: and this was adjudged a good juſtification; for every man may arreſt him that doth a Fellony, or him who maketh it apparent that he

Impriſoning him that doth attempt to rob. *Fitz. Bar. 102. 2 Ed. 4. 26. Numb. 13.*

Carrying one to a Juſtice or to Gaole.

Arreſt.

he doth intend and goe about to commit a Fellony, for that he doth thereby manifeſt himſelf to be a principall breaker of Law and Peace of the Nation.

Hue and Cry.

10. The Conſtable is to levy *Hue* and *Cry* when there is cauſe, and to ſend it Eaſt, Weſt, North, and South; and it is beſt to expreſs in the *Hue* and *Cry*, the nature of the thing ſtoln, colour, and marks, and to deſcribe the number of Fellons, their Horſe, Apparel, &c. And this Officer receiving a *Hue and Cry* after a Fellon, muſt, with all ſpeed, make diligent purſuit, with Horſe and Foot, after the offendors from Town to Town the way it is ſent, and make diligent ſearch in his own Town: And the Conſtable and Hundred both may be puniſhed for neglect herein. And all other men muſt hereupon be induſtrious to take them. Hitherto for the moſt part we have ſhewed you nothing but what is of the primitive and immediate authority and duty of theſe Officers, and what they may and muſt doe, *ex Officio*, without any commandement or authority from others. But for as much as a great part of their duty (eſpecially concerning the Peace) reſteth in making of due execution of the Precepts of higher Officers, and eſpecially of the Juſtices of Peace, who be (as it were) immediately ſet over them: We are therefore in the next place to ſhew you ſome part of that which they are to doe in that behalf.

In executing of the Precepts of others.

Albeit theſe Officers be ſubject to the commandements of the Juſtices of Gaole-delivery, of *Oyer* and *Terminer*, and of ſome higher Juſtices;

ſtices; yea, and to the Precepts of Sheriffs, Coroners, and Stewards of Leets, and of other Officers in ſome certain Caſes: yet becauſe they are called upon moſt commonly by the Juſtices of Peace, ſo as at this day their Office is for the moſt part converſant about the execution of their Warrants: For if the Juſtice of Peace doth underſtand by complaint, that any man hath ſtoln or ſlain, or any Servant or Laborour without Licenſe hath departed out of his Maſters ſervice; or any that liveth idly or ſuſpectedly, knowing once in what Pariſh he is, he doth write to any one of theſe Officers, to command him to bring this perſon before him, and then he doth examine him, and if he finde cauſe, he doth commit him to ſome Conſtable or Officer to convey him to the Gaole, there to abide till the Juſtices meet at their Quarter-Seſſions, or at their Gaole-delivery, that the Law may either condemn or acquit him: And to theſe Precepts theſe Officers ought eſpecially to ſhew themſelves obedient, and then alſo eſpecially when their Aide is called for, to ſuppreſs Ryots, unlawfull Aſſemblies, and ſuch like notorious breaches of the Peace. And 1. howſoever it be ſo, that if a man have Goods ſtoln, and he doth ſuſpect that ſuch a man hath ſtoln them, and he complain thereof to the Conſtable, ſo that now the Conſtable hath cauſe to ſuſpect him alſo; That the Conſtable in this caſe, of his own authority, without Warrant from a Juſtice of Peace, may ſearch for the Goods and the Fellon; and if he finde the Goods, ſeize them; and if he finde the Fellon apprehend him: yet for the

Lamb. Conſt. off. Numb. 14.

Fellony. Search. Dalt. J. P. 289. *Numb.* 15.

the most part the Constable not knowing his authority, or the danger, is so fearfull and remiss herein, that he doth nothing until he have a Warrant of a Justice of Peace to provoke and enable him so to doe. And if such a Warrant be sent to him from a Justice of Peace, to search after Goods stoln and the party that is suspected to steal them; the Constable may, and must execute this Warrant accordingly. 2. If a Warrant come to any of these Officers, from a Justice of Peace, to bring such a man before him, to give Sureties for the Peace or Good-behaviour: In this Case the Officer cannot make a Deputy, or command another to doe it, but he may require the aid of others to help himself in the doing of it. 3. If a Warrant be directed to this Officer from the Justice of Peace, to bring any person before some Justice of the Peace of the County, for the Peace or Good-behaviour, and the cause (as it ought to be) is set down in the Warrant: In this Case the duty of the Officer is first to finde out the party; and having found him, to require him in the name of *the Keepers of the Liberties of England* to goe with him to a Justice of Peace to put in security according to the Warrant: The which if he refuse or delay to doe, or if he offer to run away from him or resist him, then must the Officer forthwith arrest him and convey him to the Prison (if the Warrant be so, as usually it is) or put him in some Stocks until he can conveniently have strength to goe with him, without carrying him to a Justice of Peace; and then must the party remain in Prison until he shall voluntarily

Search.

Deputy.
Dalt. J.P.290. 291.
Dalt. J.P. 291.
Coo. 5. 59.
Broo. Faux. Impr. 2. Warrant.

Arrest.

Stocks.

rily offer and finde Sureties, according to the Warrant And if the party, upon the first demand thereof made by the Officer, doe yeeld to goe and finde Sureties, then may not the Officer absolutely arrest him: And if he be obstinate and will not yeeld to the Officer, but resist him, the Officer may justifie the beating or hurting of him. And of this Warrants execution and of his proceedings upon it, the Officer must give an account to the Justices of the Peace at their next Sessions of the Peace. And if the party doth yeeld to goe to a Justice of Peace to give Surety, according to the Warrant, but will not goe to the same Justice that made the Warrant, but to some other Justice he doth name; herein the Officer may, if he please, suffer him to have his will, howbeit in this case the Law doth give the election to the Officer, and he may bring the party before what Justice of Peace he please: And yet if the Warrant be to bring the party before the same Justice of Peace that made it: In this case the Officer must bring him before the same Justice, and cannot bring him before any other. And if the party being before the Justice of Peace, refuse to give Surety according to the Warrant, and the Warrant have words of authority to the Officer, to carry him to the Gaol (as most commonly every Warrant hath) then may the Officer carry him to prison without any new Warrant from the same or any other Justice of Peace so to doe. And in these Cases also the Officer is to consider whether the Warrant doe come directly from the meer authority of the Justice of Peace, or else be grounded on

Beating.

Carrying to Gaole.

Warrant. a Writ of *Supplicavit*, sent down from the higher authority (which difference ought to appear in all well made Warrants:) For if the Warrant be grounded on such a Writ, then may the Officer compell the party to goe to the very same Justice or Justices of Peace that *Dalt. J.P. 137.* made the same Warrant, or else he may carry him to Gaole. Neither is it requisite in this case, that the Officer should dance up and down after the party untill he can finde out Sureties, *5 Ed. 4. 6.* but he may detain the prisoner untill he can bring Sureties to the Officer. And the Officer that doth arrest a man upon such a Warrant of the Peace or Good-behaviour, must see that he doe afterwards bring the party to the Justice of Peace to give Sureties, or to the Gaol; for if he doe not so, he may be punished for it by fine at the Sessions; and as it seems also) by Action of Fall-imprisonment, at the suit of the party arrested. And if the party against *Numb. 16.* whom such a Warrant is granted, hearing thereof, doth (as oft times he doth) offer himself with Sureties for the cause, to some other Justice of Peace, and he doth binde them, or he findeth Sureties in some of the Courts at *Supersedeas.* *Westminster*, and so hath a *Supersedeas* out of the *Chancery*, upper-Bench, or from any Justice of the upper-Bench, or from any Justice of Peace of that Countie, directed to all the Officers of the County to discharge the same Surety of the Peace or Good-behaviour, and he hath the same ready to shew to such Offi- *Arrest.* cer as shall come to him with the Warrant, as aforesaid, and doth shew and deliver the same to him when he is about to execute the same

Warrant:

Warrant: In this Case the Officer is not to meddle with him: For if the Officer shall require the party to obey the arrest, he may refuse it; and if the Officer shall arrest the party, he may have an Action of False-imprisonment against the Officer for it. And by this *Supersedeas* the Officer is discharged of any duty touching the Warrant of the Justice of Peace directed to him: But let the Officer see that he keep his *Supersedeas* safe for his discharge, if he be questioned for not serving the Warrant. And it is not amiss for him to give notice of the same to the Justice of Peace from whom he received the commandement of service, that thereby he may see the cause why the same was not done. But in these Cases some say that another Justice of Peace cannot discharge the Warrant of the first Justice of Peace, untill the party be bound indeed. Howbeit if such a *Supersedeas* come to the Officer that hath the Warrant to arrest; it seems that by this he is discharged, and that he is to obey the *Supersedeas* especially, if he know not whether the party have given Bond or not.

Hitherto we have spoken of the Office of these Officers, set forth by the ancient common Laws of the Nation. And now we come to speak of the same as it is enlarged by divers Statutes, wherein also we shall finde the same difference we had before: That by the same Statutes they are required and enabled to doe something as of their own authority, and without any commandement or authority from others: and other things they are required and

enabled to doe when they have commandement from the Justices of Peace, or some other superior power, so to doe.

SECT. 3.

Of the Office of the High-Constable *and* Petit-Constable *against Prophaners of the* Lords-Day.

FOR the better understanding of their Duty herein, these things are to be known. 1. This day is by every one to be sanctified and kept holy; and men must be carefull herein to exercise themselves in the duties of Piety and true Religion, publiquely and privately; and every one on this day (not having a reasonable excuse) must diligently resort to some publique place where the service of God is exercised, or must be present at some other place, in the practise of some Religious duty, either Prayer, Preaching, Reading, or Expounding the Scriptures, or conferring upon the same. 2. None may on this day meet out of their own Parish at any sports whatsoever, nor may they meet within their own Parish for Boar-bayting, Bull-Bayting, Enterludes, or other unlawfull exercises, under pain to forfeit three shillings four-pence for every offence, to be levyed by distress and sale of Goods, and for lack of distress, to sit three hours in the Stocks: Nor may any one on this day keep or be present at any Wrestlings, Shootings, Bowlings, Ringing of Bells for pleasure,

pleaſure, Maſque, Wake, Church-Ale, Dancing, Games, Sport or Paſtime whatſoever, under pain to forfeit five ſhillings, if he be above fourteen yeers old; and twelve pence by him that hath the government of him, if he be under fourteen yeers old, to be levyed by diſtreſs and ſale of Goods; and if no diſtreſs be to be had, to ſit in the Stocks three houres. 3. No Carrier may goe with his Horſes, no Waggoner, Carter, or Wain-man may goe with his Cart, Waggon, or Wain, or Drover with his Cattel, on this day, under pain to forfeit twenty ſhillings for every offence, to be levyed by diſtreſs and ſale of his Goods, if he be queſtioned within ſix weeks after the offence done. But there ſhall be but one twenty ſhillings forfeited for one journey, although he paſs through twenty Pariſhes, and this twenty ſhillings that Pariſh ſhall have where the diſtreſs is firſt taken. 4. No Butcher may kill or ſell any victuals on this day, under pain to forfeit ſix ſhillings eight pence, if it be queſtioned within ſix weeks after the offence done, to be levyed by diſtreſs and ſale of Goods. 5. None may Cry, ſhew forth, or put to ſale any Wares, Merchandiſes, Fruits, Herbs, Goods, or Cattel, on this day, unleſs it be in an Inne, or Victualing-houſe, and for ſuch as cannot otherwiſe be provided for; and unleſs it be the crying and ſelling of Milk before nine in the morning, and after four in the afternoon, from the tenth of *September* to the tenth of *March*, and for the reſt of the year before eight in the morning, and after five in the afternoon, under pain to forfeit the things ſo

Carryers.

Butchers.

Tradeſmen.

cryed or offered to sale. 6. None may on this day, without good cause by allowance of one Justice of Peace, travel, under pain to forfeit ten shillings; nor carry any burthen, nor doe any worldly labour, under pain to forfeit five shillings, both these forfeitures to be levyed by distress and sale of Goods: and if no distress to be had, to sit in the Stocks three houres.

Travellors.

Drinking, Tipling.

7. None may on this day, or the dayes of Humiliation, or Thanks-giving, use Dancing, prophanely Singing, Drinking, or Tipling in any Tavern, Inne, Ale-house, or Tobacco-house, nor be there: Or grinde any Corn at a Mill, but upon cause to be allowed by one Justice of Peace, under pain to forfeit ten shillings a peece, both he that is in the Inne, and he that keeps the Inne, the Millar and he that owes the Corn, to be levyed by distress or sale of Goods; and for lack of distress, to be set six hours in the Cage or Stocks. 8. No Traveller, Waggoner, Butcher, Higler, Drover, or their Servants, shall come into their Inne or Lodging on *Saturday* night after twelve a clock; Nor goe from thence *Monday* morning before one a clock, without necessary cause to be allowed by one Justice of the Peace, under pain of the forfeiture of ten shillings by the Inne-keeper, and ten shillings by the Traveller, and to be levyed by distress and sale of Goods; and for lack of distress to sit six hours in the Stocks or Cage. 9. None may execute any Writ, Order, or Warrant on this day, dayes of Humiliation or Thanks-giving, but in case of Treason, Fellony, breach of the Peace, and profanation of the day, under pain

Carryer.

Serving of Process.

to

to forfeit five pounds, to be levyed by diſtreſs and ſale of Goods; and for want of diſtreſs, to ſit ſix hours in the Cage or Stocks, and the ſerving of the Proceſs is void. 10. None (but in caſe allowed by one Juſtice, or for Gods Service) may travel with a Boat, Wherry, Lyter, Barge, Horſe, Coach, or Sedan, on this day, under pain of forfeiture of ten ſhillings by him that is carryed, and five ſhillings by him that doth carry, to be levyed by diſtreſs and ſale of Goods; and for lack of diſtreſs to ſit ſix hours in the Stocks or Cage. 11. All Conſtables, Church-Wardens, Overſeers of the Poor, Governors of Companies of Watermen, and other Officers, muſt, upon ſight and knowledge or information of any of theſe offences before named committed, ſeize and ſecure the Goods and Wares cryed, ſhewed forth, or put to ſale, and make diligent ſearch for the diſcovering, finding out, and puniſhing of the offendors, under pain of twenty ſhillings, to be levyed by diſtreſs and ſale of Goods, and this puniſhment they muſt (as it ſeems) endeavor, by carrying the offendor to a Juſtice of Peace.

Coaches, Boats.

Officers.

Seize Goods.

Search.

And this, it ſeems, is hereby lawfull to be done by one of theſe Officers *ex officio*, and without a Warrant, hearing or ſeeing any one prophane this day, by any of the particular offences aforeſaid. Alſo if a Warrant be ſent to the Conſtables, Church-Wardens, and Overſeers of the Poor of the Pariſh or place, to levy the forfeitures, or to inflict the puniſhment aforeſaid, they muſt purſue their Warrant, and doe it under pain of twen-

ty shillings forfeiture. *Stat.* 1 *Car.* 1. 3 *Car.* 1. *Ordin.* 6. *April* 1644. *Act* 19. *April* 1650.

SECT. 4.

Of the Office of High-Constables *and* Petit-Constables, *against Swearers.*

AS touching this, these things are to be premised. 1. The former Act is repealed. 2. Every one that sweareth is to forfeit for the first offence as followeth. The Lord and all above him in degree thirty shillings: The Barronet or Knight twenty shillings: The Esquire ten shillings: The Gentleman six shillings eight pence: Any other Man or Woman, single or married, three shillings four pence: And for every offence afterward, twice as much. And for the tenth offence, being proved by verdict or confession, he is to be bound with Sureties to the Good-behaviour for three years: And for lack of payment or giving security, to pay it, and distress to levy it. If he be above twelve years old, he is to sit by the heels in the Stocks three hours for the first offence, and six hours for every offence after: If under twelve years, he is to be whipped by the Constable, or Master, or Father, in his presence. 3. Swearing after the Surety for the Good-behaviour given,

given, is a breach of the Bond. 4. Any Officer, Conſtable, Church-Warden, or Overſeer of the Poor, may, *ex officio*, that heareth it, bring the offendor to a Juſtice to be puniſhed. And if any one Juſtice of Peace ſend his Warrant to any high-Conſtable or petit-Conſtable, to doe execution upon this Statute, they are to ſee it done accordingly. 5. He that is ſued for doing any thing on this Law, may plead the general iſſue, and if it goe with him, ſhall recover treble coſt. *Act.* 22. *Junii* 1650. *Pleading.* *Coſts.*

SECT. 5.

Of the Office of the High-Conſtable *and* Petit-Conſtable *againſt Adulterers and Incontinent Perſons.*

FOR the knowledge hereof take theſe things. 1. If any ſhall marry or have the carnal knowledge of the body of his or her Grand-father or Grand-mother, Father or Mother, Brother or Siſter, Sonne or Daughter or Grandchild, Father or Mothers Brother or Siſter, Fathers Wife, Mothers Husband, Sonnes Wife, Daughters Husband, Wifes Mother or Daughter, Husbands Father or Sonne, and confeſs it within twelve moneths after, or if it be found by verdict before Juſtices of Aſſize and the Peace, it is Fellony wherein is no Clergy. 2. If any marryed Woman whoſe Husband have

have not been three years absent beyond Sea, or by common report reputed to be dead, or three years together from her, and she doth not know him to be alive, shall be carnally known by any but her Husband, except she be ravished, it is Fellony, and both Man and Woman shall dye without Clergy. 3. If any shall carnally know any unmarryed Maid, or Widdow, they both, if they confess it, or it be found by verdict, shall be committed to the common-Goale, without bayle, for three Moneths, and until they respectively give security before some Justice to be of Good-behaviour for one year: the second offence is Fellony without Clergy. 4. If any man or Woman be committed for a common Bawd or keeping a common Bawdy-house, for his first offence he is to be openly whipped, set in the Pillory, and marked with a hot Iron in the forehead with this letter *B*, and then sent to Prison or Bridewell for three years, without bayle, and untill they give surety for their Good behaviour for life. The second offence is Fellony without Clergy. *Act* 10. *May.* 1650. and 9. *Aug.* 16.8. 5. No party to be believed against the other, not Husband against the Wife, nor Wife against Husband. 6. If any of these Officers be informed that a Man or Woman be committing of Adultery or Fornication together, he may, and ought to take company with him; and if he finde it so, he may arrest them and carry them both to prison, till they give suretie of their good behaviour.

7. If

7. If any Warrant come from a Juſtice of Peace to any one of theſe Conſtables, to apprehend any ſuch lewd perſon, that he may put in ſureties for his good behahiour, he muſt execute it duely, according the contents thereof. 1 *H.* 7. 7. 13 *H.* 7. 10.

SECT. 6.

Of the Office of the High-Conſtable *and* Petit-Conſtable *in common, about Rogues.*

IT is the duty of all theſe Officers to puniſh Rogues and Vagabonds: As touching this part of their Office, two things are to be known. 1. What a Rogue is, and who is to be accounted a Vagabond. Secondly, What is to be done unto him. *Againſt Rogues and Vagabonds.* 39 *Eliz.* 4.

As touching the former of theſe, theſe things are to be known, that all the perſons hereafter mentioned, being above the age of ſeven years, and offending as hereafter is mentioned, ſhall be adjudged Rogues, or at the leaſt ſhall be puniſhed as Rogues (*viz.*) 1 *Jac.* 7. *Dalt. J. P.* 96. *Lamb. J. P.* 192. 39 *Eliz.* 17. *Who a Rogue is.*

1. All perſons going about begging, upon any pretence whatſoever, as Sea-faring men, pretending loſſes of their Ships or Goods upon the Sea, or ſuch as call themſelves Scholars, or the like. Secondly, All idle perſons going about the Country, either uſing any ſubtle craft, or unlawfull Games, or being Fortune tellers, *Numb.* 1.

tellers, or Juglers, or uſing any ſuch crafty Science. Thirdly, Stage-players declared to be Rogues, and to be puniſhed by Ord. *Feb.* 1647. 4. All perſons that be, or utter themſelves to be Proctors, Procurers, Patent-gatherers or Collectors for Gaoles, Priſons or Hoſpitalls. And yet Pattent-gatherers for fire, or the like, albeit perhaps they may be within the words of the Statute, yet are they not had or reputed as Rogues, nor ſo to be dealt with; for ſuch Patents are alwaies made with a *non obſtante* the Statute. 5. All Fencers, Beare-wards and Minſtrels, wandring abroad. 6. All Tinkers, Pedlers, and petty-Chapmen, and alſo Glaſſe-men, that wander up and down the Countrey to ſell Wares: But if they bee going to a Fayre or Market only, they are not to be taken as Rogues. 7. All wandring Perſons and common Labourers, being Perſons able in Body, uſing loytering, and refuſing to work for ſuch reaſonable wages as is taxed, or commonly given in ſuch parts where ſuch perſons ſhall dwell or abide, not having living otherwiſe to maintain themſelves; and yet ſuch perſons as be of any Pariſh, and have able bodies to work, and doe not wander abroad out of the Pariſh, though they refuſe to work for the wages given or taxed, are not to be ſent to their place of byrth or laſt habitation, &c. but to the houſe of Correction. 8. All poor perſons that are appointed to ask relief in the Pariſh where they dwell, by the Overſeeers thereof, if they ſhall beg in any other ſort than is ſo appointed them, or ſhall beg by the high-

Lamb. J. P. 97.

high-wayes, though in their own Pariſh. And yet theſe perſons are not to be ſent to their place of byrth or out of the Town, except it be to the houſe of Correction; and ſo alſo it ſeemeth of all other perſons that beg in the Pariſh where they dwell, without the appointment of the Overſeers; in theſe caſes they are to be ſent to the houſe of Correction. 9. All perſons (not being Fellons) wandring and pretending themſelves to be Egyptians, or wandring in the habit, forme or attyre of counterfeit Egyptians. 10. All ſuch perſons, as being puniſhed for Rogues, and having a teſtimoniall, through their own default ſhall not purſue the order appointed by the Teſtimoniall aforeſaid; for ſo often as they ſhall break the ſame, they are to be taken and whipped again, untill they come to the place appointed them by the Teſtimoniall. 11. All ſuch poor perſons diſeaſed and impotent that (being Licenced) travell from their home to the City of *Bathe* or Town of *Buxton*, to the Baths, for eaſe of their griefs, or from thence homeward that ſhall beg; or if ſuch perſons be not lycenced by two Juſtices, or ſhall not return home again according as they are limited by their Licence, or ſhall not be provided of relief for their travel. 12. All Souldiers or Marriners that ſhall beg or ſhall counterfeit any Certificate from their Generall or Governor (but this in ſome caſes is Fellony, *Stat.* 39 *Eliz.* 17.) And yet it hath been held that if a Sea-faring man ſuffering Shipwrack, or a poor Souldier or Mariner, not having wherewith to relieve himſelfe

ſelf in his travel homewards, and having a Teſtimoniall under the hand of ſome one Juſtice of Peace, of, or neer the place where he landed, ſetting down therein the place where, and the time when he landed, and the place of the parties dwelling and byrth, whither he is to paſs, and a convenient time for his paſſage, that if in this time and way they had begged, that they were not to be accounted Rogues; But it ſeems the Law, at this day, is taken by moſt men to be otherwiſe, and that this Licence will not ſerve for the Souldier or Mariner (eſpecially if he be hurt or maimed) for then he may and ought to be relieved with money by every Treaſurer of the County where he paſſeth (*viz.*) a convenient ſumme of money to carry him through the ſame, to the next County. And it is thought that at this day, no Juſtice of Peace can licence a man to beg in any caſe; Howbeit in ſome caſes he may licence a man to wander, as in the caſes before. The Juſtices of Peace may licence poor men to travel to the Baths, and poor Souldiers and Mariners to travell to their place of birth, and one Juſtice of Peace may licence a Labourer in the Harveſt time to goe out of his own Countrey into another Country to work; And therefore if at this day a Souldier or Mariner ſhall be taken begging, or ſhall counterfeit a Certificate, he is to be accounted a Rogue.

Dalt. J.P. 92.

13. A Rogue, &c. That ſhall goe with a generall Paſport (*viz.*) ſuch a Paſport which is not directed from Pariſh to Pariſh, is ſtill to be accounted a Rogue, and may be puniſhed,

ſhed, by whipping again, and ſo alſo may ſuch a Rogue as ſhall carry his own Paſport without a Guide. 14. All Servants departing out of ſervice without a Teſtimoniall, &c. or which ſhall be taken with any counterfeit or forged Teſtimoniall. 15. All perſons that are able to labor, and thereby to relieve themſelves and there Families, and ſhall run away, or threaten ſo to doe, and to leave their Families to the Pariſh. 16. And all perſons infected of the Plague, and commanded by any of theſe Officers to keep in their Houſes, that doe notwithſtanding goe abroad amongſt their Neighbours. 5 *Eliz.* 4. 7 *Jac.* 4. 1 *Jac.* 31.

What is to be done to him.

2. As touching the latter queſtion, what is to be done to a Rogue theſe things are to be known. 1. Every one of theſe Officers muſt doe his beſt endeavour to apprehend every one of theſe Vagabonds, Rogues, or ſturdy Beggers which ſhall be found and taken Begging, Vagarant wandring or miſordering themſelves within their Hundred, Pariſh, or Tything: And if any other man bring any ſuch Perſon to any of theſe Officers, he muſt take hold of him. 2. After he hath apprehended any ſuch Rogue (except it be the Rogue that doth run or threaten to run from his Family) he is to take order (with the adviſe of the Mineſter and one of the Pariſhoners of the place) that he be ſtripped naked from the middle upwards, and that he be openly whipped untill his or her body be bloody. 3. After this whipping the party muſt have a Teſtimoniall ſubſcribed with the hand, and ſealed with the *Numb.* 2. 39 *Eliz.* 4. 1 *Jac.* 7.

the seal of the same officer and Minister testifying that the same person hath been punished according to this Statute, & mentioning the day and place of his other punishment, and the place whereunto such person is limited to goe, and by what time the said person is limited to pass thither at his perill after this manner.

John a Style *a sturdy Vagarant Begger (of low personage, red haired, and having the nayle of his right Thumb cloven, aged fourty years, was this sixt day of* April An. Dom. 1650. *openly whipped at* W. *in the* County *of* Glocester *for a wandring Rogue, according to the Law, and is assigned to pass forthwith from Parish to Parish by the Officers thereof, the next strait way to* Sale, *in the* County *of* Essex, *where (as he confesseth) he was born [or dwelled last by one whole year and if the case be such] and he is limited to be at* Sale *aforesaid, within ten dayes now next ensuing at his perill. Given under the Hand and Seale of* A. B. *Minister of the said Parish of* W. *and of* C. D. Constable *of the said Parish.*

And this Testimoniall must be Registred in a Book provided for that purpose by the same Minister under pain of five Shillings. 4. The party must be then forthwith sent by the same Officer to the next Parish that from thence he may be conveyed from Parish to Parish by the Officers of the same Parishes, the next straight way to the Parish where he was born, if the same may be known by the parties confession or otherwise: And if the same may not be known, then to the Parish where he or she last dwelled by the space of

of one year before the time of the ſame puniſhment done, there to put him or her ſelf to labour; or not being known where he or ſhe laſt dwelt or was born, then to the Pariſh where he or ſhe laſt paſſed through without puniſhment and thence to be conveyed from Officer to Officer to the houſe of correction of the limit wherein that Pariſh doth ſtand, or to the Gaol of the County. And in theſe caſes it is the duty of theſe Officers alſo, to take and convey theſe perſons from hand to hand, each of them from his own to the nex *Tything* accordingly: And in this time they are not to beg but are to be provided for at the charge of the Pariſhes through which they are conveyed, the Officer laying out the ſame for the Pariſh. And upon this part becauſe the execution of theſe Lawes is required in theſe Officers, for their better direction herein theſe things (ſaid to be reſolved by the Judges at *Weſtminſter* ſoon after the making of the Statute of 39 *Eliz.* 4.) are to be obſerved. 1. If a Rogue ſay he was born at ſuch a place and it cannot appear that he was born elſewhere, he muſt be ſent thither. 2. If the Husband or Wife have a houſe, and the Husband or Wife rogue about, they ought to be ſent to the Town where the houſe is, and ſo of an Inmate. 3. The Wife and Children under ſeven years of age being Vagarant muſt goe and be placed with the Husband, and if the Husband be dead, then with the Wife, where ſhe was born or dwelt. And the Vagarant Children above ſeven years of age muſt be ſent to the place of their Birth: And if the

Vagarant Parents with their Children under ſeven yeares, be placed at the place of Birth of the Parents, or at the place of laſt dwelling (as the caſe ſhall fall out) if afterwards the Parents or either of them dye, or run away, yet the Children once ſettled muſt remain there ſtill, and may not be ſent to their place of Birth though after they grow to the age of ſeven years. 4. The wife being a Vagarant Rogue, ought to be ſent to the Husband, though he be but a Servant in another Town. 5. The Rogue whoſe place of Birth or dwelling cannot be known, having Wife or Children under ſeven years of age; they muſt goe with the Husband to the place where they were laſt ſuffered willfully to paſs through without puniſhment, where the Children muſt be relieved with the work of their Parents, though their Parents be committed to the houſe of Correction. 5. If any of theſe Officers doe not their utmoſt endeavour to take, puniſh, and convey ſuch Rogues according to the Statute, they forfeit ten Shillings for every default; and if any other man ſhall bring any ſuch Rogue to the Officer, and he refuſe to take and puniſh him as aforeſaid, he doth forfeit twenty Shillings for every time he ſo doth; and if any man hinder the puniſhment or conveyance of Rogues after this ſort, as if any man ſhall make reſcues againſt any perſon authorized for the execution of this Statute, or any man convey Rogues by a generall Paſport, without conveying them from Pariſh to Pariſh, or if any Conſtable will not receive a Rogue when he is brought to him in

the

the right way, according to his paſs, or if he accept him and doe not convey him to the next Officer; for every of theſe offences, the offendor doth forfeit five pounds, and is to be bound to the good Behaviour; and if the Rogue be brought and delivered, or offered to the Church-wardens or Overſeers of the poor, or either of them (to whom he is to be offered) they muſt accept him and look to him, or elſe they doe forfeit for every default herein five pound, and they are to be bound to the good Behaviour; and if theſe Officers doe take him, it ſeems they may deliver him over to the Conſtable preſently. For, it ſeemes the Rogue is to be delivered or offered to the Church-wardens and Overſeers (who are to ſee him relieved there) but he is to be carried and conveyed by the Conſtable; and yet if the Conſtable will not receive him at their hands, the Church-wardens and Overſeers themſelves muſt, at their perill, ſee him conveyed to the next Pariſh. 6. Conſtables are not to poſt away ſuch perſons as ſhall come or be ſent unto them, that are deſperately ſick, or women with childe, ready to be delivered, but are to keep ſuch till they recover ſtrength, for by this meanes many have periſhed; neither are they to deliver any Vagabonds or Cripples to the next Conſtables, after Sun-ſet, or to convey ſuch, eſpecially Cripples, by horſe or cart upon the Lords day, upon pain of puniſhment. 7. If any of theſe Rogues ſhall appear to be dangerous to the inferiour ſort of people of the place, as if he ſhall threaten, or offeer any violence

Incorrigible Rogues. Numb. 3.

violence to them, or will not be reformed by this means of his Roguish kinde of life, as in case where he hath been punished and sent to his place of Birth, and doth then fall to his roguish kinde of life again, or when he shall say he was born, or last dwelt in such a place, and in truth it is not so; in these cases such a person is to be accounted an incorrigible Rogue, so also is him that acteth as a Stage player the second time after conviction. And it is the duty of these Officers, if any of them meet with such persons within his liberty, to carry him before some Justice of Peace, there to be ordered by him according to the Statute. 8. If any warrant be sent from the Justices of Peace to any of these Officers, to convey any Rogue or other idle or disorderly person unto any house of Correction within the said County, they must be carefull, at the charge of the Hundred to doe the same, under pain to forfeit for every default, what Fine (not exceeding fourty Shillings) the Justices shall impose upon him that doth offend 9. The Justices of the Peace of every Division, are to keep a private Sessions twice a yeer, at the least, to look to the execution of Statutes for the houses of Correction, and for the punishment of Rogues, and they must then four or five dayes before, send their Warrants to all these Officers within the Division, to require them that they, being assisted with some others sufficient men of the place, doe make privy search in one night within their precincts, to finde out and apprehend such Rogues and idle persons, and to bring them, if they finde

Ord. 11. Febr. 1647.

Conveying him to the house of Correction.

Private Sessions.

Numb. 4.

Search.

finde any, before the ſaid Juſtices at their meeting; and this theſe Officers muſt be carefull to doe accordingly. And all theſe Officers muſt appeare at the ſaid meeting, and then and there certifie upon their oathes, in writing, under the hands of the Miniſters of the places where they dwell, what Rogues and Vagabonds they have taken in the ſame ſearch, or ſince the laſt meeting of the Juſtices, and whom they have puniſhed and ſent to the houſe of Correction, under pain to forfeit for every default whatſoever the ſaid Juſtices (under 40 s.) ſhall aſſeſſe. 10. Theſe Officers are to take and puniſh, and convey to other Officers every Rogue and Begger that ſhall be brought and ſet on the Land here from *Ireland*, *Scotland*, or the *Iſle of Man*, till he come to the next Port or Pariſh, in or neer where he was firſt landed, under pain to forfeit ten ſhillings for every default. 11. It is every mans duty, as well as theſe Officers, to cauſe to be apprehended ſuch Rogues as he ſhall ſee or know to reſort to his houſe, to beg or receive any Almes, and him or them, ſhall carry or cauſe to be carried to the next Conſtable, or elſe ſhall forfeit, for every default herein ten ſhillings. 12. The perſon that ſhall run from his Familie, and leave it to the Pariſh, is to be puniſhed as an incorrigible Rogue: And he that doth threaten ſo to doe, is to be ſent to the Houſe of Correction, unleſs he can give Sureties for the diſcharge of the ſaid Pariſh,

1 *Jac.* 7.

1 *Jac.* 4.

SECT. 7.

Of the Office of the High-Conſtables *and* Pettit-Conſtables, *about Search for, or Seizing on Perſons or Goods.*

1. THey may ſearch *Ale-houſes*, *Tobacco-houſes*, for Typlers, and Idle Perſons on the Lords day, *Act.* 29. *Aprill* 1650. 2. A Fellony being newly committed, the Conſtable within his limits may (*ex officio*, and without any Warrant from a Juſtice of Peace) and ought to ſearch for the Fellon or the goods. See more for this in *Sect.* 2. of this Chapter before. 3. Theſe Officers are to ſearch houſes ſuſpect to dreſs meat in the Lent and to ſeize it and give it to the poor, 1. *Jac.* 29. 4. Theſe Officers are once every fifteen dayes to ſearch and enquire the defaults of *Innes* and *Ale-houſes*. 5. They may ſearch ſuſpect places for Nets and Doggs to take Partridges and Phesants. 6. The High-Conſtable may ſearch for Engins uſed for ſtretching of Cloth and deface them. 7. They may ſearch for bad Mault. 8. If any man flye for a Fellony, the Conſtable of the Town may and ought to ſeize on, and keep ſafely his goods, becauſe the Town is to anſwer for them, and it is beſt to be done by Indenture taken by the Teſte and before the Inhabitants. So upon the apprehending of the Perſon for Fellony

23 *Eliz.* 10.
7 *Jac.* 11.
39 *Eliz.* 10.

Fellony, the Officer may ſeize on all his Goods and Chattels, and keep them ſafe, letting the owner have ſo much of them as is for his neceſſary maintenance, until his conviction, for til then the property is not altered.

SECT. 8.

Of the Office of the High-Conſtable *and* Petit-Conſtable, *about making and levying of Rates.*

THE Juſtices of the Peace, or the more part of them, may at their general Seſſions holden after Eaſter, yearly (if they think meet) rate every Pariſh weekly at their diſcretion, ſo as no one Pariſh be rated above ſix pence, nor at leſs than one half-penny by the week, and ſo as the totall rate of the County amount not to above eleven pence for every Pariſh within the County; the which money is to be diſtributed for the relief of the poor priſoners in the upper-Bench and Marſhalſey, and ſuch Hoſpitals and Almſ-houſes as are within the County, according to the diſcretion of the Juſtices, ſo as there be ſent out of every County yearly twenty ſhillings to the upper-Bench, and twenty ſhillings to the Marſhalſey, by a quarterly payment. And this ſumme in every Pariſh is to be aſſeaſed by the agreement of the Pariſhoners within themſelves: in the making of wch rate, their beſt way is to follow the rule of the taxation of men for the poor,

Rates for the upper-Bench and Marſhalſey 43 Eliz. 2. Numb. 1.

or in default thereof by the Church-Wardens and Petit Constables of the place, or the more part of them; and in default of their agreement, by the order of the Justice of Peace within the same Parish (if there be any) or if not, of the next Justice of Peace in the next parts adjoyning. And if any person of the Parish so taxed, refuse or neglect to pay the same rate, the Church-Wardens and Constables, or any of them; or in their default, any Justice of Peace of the said limit may levy the same by distress and sale of the offendors Goods, rendring to him the over-plus. And these sums taxed by the Justices on every Parish, the Church-Wardens of the Parish must collect and pay over to the high-Constable of the Hundred quarterly, ten dayes before the end of every quarter. And if the Church-Wardens or Petit-Constables, their Executors or Administrators, fail to pay this money, the Church-Wardens, their Executors or Administrators, shall forfeit ten shillings. And after this the High-Constable must pay over the same at every Quarter-Sessions, to the Treasurers of the County, or any of them. And if he, his Executors or Administrators, doe not so, they shall forfeit twenty shillings: And these forfeitures the Treasurers may and must levy by distress and sale of their Goods, rendring the over-plus to the party; and when he hath recovered the money, he must imploy it to the uses aforesaid: And if any Action shall be brought against any Officer, for doing any thing by vertue of this Act, he may plead in generall, that it was done by authoritie

Plea.

tie of this Statute, without ſhewing any other ſpeciall matter; and if it paſs with the Defendant, or the Plaintiff be nonſuit after appearance, the Defendant ſhall recover treble Damages. *Coſts.*

Two Juſtices of Peace may rate a Hundred for the money recovered againſt the ſame, and levyed upon one man of the Hundred for a Robbery; and then theſe Officers of the ſeverall places, Towns, and Pariſhes may, and muſt, rateably and proportionably taxe and aſſeſſe every Inhabitant and Dweller within the ſame place, according to his abilitie, towards the payment of the Rate and Aſſeſſment made by the Juſtices. And this money ſo rated, they muſt afterwards collect: And if the parties ſo taxed refuſe to pay this Rate, thoſe Officers may, of their own authoritie, diſtrain every perſon by his Goods and Cattels that ſhall refuſe to pay the ſame, and may ſell the ſame Goods, and retain ſo much of the money, made thereof, as his taxation ſhall come unto, and the over-plus of the money made of the ſame Goods, they muſt deliver to the perſon ſo diſtrained. And within ten dayes after the collection of thoſe monies, they muſt pay over the ſame to one of the Juſtices of the Peace that made the ſame Rate, to the uſe of the party robbed. *Rates for money recovered againſt a Hundred for a Robbery.* *Numb.* 2. 27 *Eliz.* 13.

If any perſon be ſent to the common Gaol of the County by any Juſtice or Juſtices of the Peace for any offence, the ſame perſon, if he have ability and eſtate of his own to doe it, muſt bear his own and his attendants charges; and this if he refuſe to defray, then ſuch Juſtice *Rates to carry an offender to Gaole.* *Numb.* 3. 3 *Jac.* 10. *Dalt. J. P.* 298.

ſtice or Juſtices of Peace that ſo ſent him to Gaole, may by Warrant under his or their Hands and Seals give, power unto any of theſe Officers of the place where ſuch perſon ſhall be dwelling, or from whence he ſhall be committed, or where he ſhall have Goods, by the appraiſment of four of the honeſt Neighbours of the place, to ſell ſo much of his Goods as to diſcharge it, and to render him the overplus: And in caſe ſuch perſon ſhall not have any Goods known within the County, whereby to make ſatisfaction, then that the Conſtables and Church-Wardens, and two or three others of the honeſt Neighbours of the place where the ſaid offendor ſhall be taken (if there be any ſuch Officers there) or otherwiſe four of the principall Inhabitants of the place ſhall make a Rate, which being confirmed by the hand of one or more Juſtices of the Peace, ſhall binde the Inhabitants. And if any ſo taxed ſhall refuſe to pay the rate, the ſame Juſtice or Juſtices that did commit the offendor, or any other Juſtice of Peace neer adjoyning, may give Warrant to any of theſe Officers of the place to diſtrain his Goods there, and to ſell the ſame. And then, and thereupon this Officer may and muſt take ſome of his Goods, and appriſe them by four ſubſtantiall Neighbours, and afterwards he may ſell ſo much thereof as to pay the ſame rate; and if there be any over-plus, he muſt deliver the ſame to the party taxed. It is fit this Officer ſhould be paid his charge for the convey of Rogues, *Reſol. Judges* 1633. *ſect.* 20. But *Quære* how it ſhall be done. If the Officers of the Pariſh agree

agree in it, the best way is to fetch it in upon the rate for the Poor. or Church, by the help of Justices.

Rates for the maymed Souldiers and Mariners. 43 *Eliz.* 3. *Numb.* 4.

Every Parish shall be charged to pay weekly such a sum of money, towards the relief of Sick, Hurt, and Maimed Souldiers and Mariners that have lost their Limbs or disabled their bodies in the publique Service, as by the more part of the Justices of the Peace at their generall Quarter-Sessions holden after Easter yearly, shall be taxed, so as no Parish be rated above the sum of ten pence, nor under the sum of two pence, weekly to be paid, and so as the total sum of such Taxation of all the Parishes in any County where there shall be above fifty Parishes, doe not exceed the rate of six-pence for every Parish. The which sums so taxed shall be yearly assessed, by the agreement of the Parishioners within themselves [in the making of which rate, the best way to follow the rule of Taxation for the Poor] or in default thereof, by petty-Constables and Church-Wardens of the Parish, or the more part of them, or in default of their agreement, by the order of the Justice or Justices of the Peace living within the Parish, or (if there be none) living in the parts next adjoyning. And if the parties rated refuse to pay the rate, the Constables and Church-Wardens, and every of them; or in their defaults, the said Justice or Justices of Peace, may levy it by distress and sale of the Goods of the partie, rendering to him the over-plus. And this monie the Church-Wardens and Constables must collect, and pay to the high-Constable

ſtable of the Diviſion, ten dayes before every Quarter-Seſſions. And the high-Conſtable alſo, at the ſame Seſſions, muſt pay over the ſame monies again to any one or two of the Juſtices of Peace, or to the Treaſurer or Treaſurers of the ſaid collection, under pain of fourty ſhillings to be forfeited by the high-Conſtable for every default; and under pain of twenty ſhillings to be forfeited by the petty-Conſtable for every default of his, the ſame monie to be recovered by the ſaid Treaſurer, by ſale of the Offendors Goods, as aforeſaid, and to be imployed by him to the uſe of the Poor, maimed Souldiers, and Mariners.

Rates for the Priſoners in the Gaole.
Numb. 5.
14 Eliz. 5.
2 Jac. 25.

They are to make a Quarterly-payment of all ſuch ſummes of monie as are raiſed in every Pariſh and paid to them by the Church-Wardens of the Pariſhes, for the relief of the poor priſoners in the common Gaole, under pain of five pounds. And this monie the Conſtables in ſome places doe pay to the high-Conſtable.

Rates for the amending of Bridges.
22 H. 8. 5.
Numb. 6.

They are to be aiding and aſſiſting to the four Juſtices of Peace, appointed and authorized for the making of Taxes for the reparation of Bridges, according to the Statute of 22 *H* 8. For theſe Juſtices are to make the Taxation by the aſſent of the Conſtables, or of two of the moſt honeſt Inhabitants of the Pariſh.

Rates for the houſe of Correction.
39 Eliz. 4.
Numb. 7.

The Juſtices of the Peace at the Quarter-Seſſions may Tax the County towards the erection and maintenance of houſes of Correction. And all theſe Officers muſt doe their uttermoſt to put the ſame Statutes in execution.

These Officers must levy such monies as they are commanded by Warrant of Justices of Peace having taxed the same for the relief of the Poor infected with the Plague) under pain to forfeit twenty shillings for every default to the use of the persons infected. *Rates for persons having the Plague.* 1 *Jac.* 31. *Numb.* 8.

SECT. 9.

Of the Office of High-Constables *and* Petit-Constables *about Inn-keepers, Ale-houses, Drunkards, Tiplers, &c.*

1. IF an Inne-keeper, &c. refuse to receive a Traveller when his house is not full, and having no good reason for it, this Officer may compell the Inne-keeper to receive him: But how he may compel him is doubted: For it seems all he can doe, is to cause him to be indicted at the Sessions, or to be suppressed for it.

2. If any person without lawfull licence take upon him (except it be at Fair times only) to keep a common Ale-house or Tipling-house, or use commonly selling of Ale, Beer, Cider, or Perry, he shall forfeit for every such offence twenty shillings, to the use of the Poor of the place (the offence being viewed by one Justice of Peace, or confessed by the party, or proved by one witness before him:) And this forfeiture may be, or is to be levyed by the Constable or Church-Wardens of the place, by Warrant from a Justice of Peace, &c. And they by vertue of such a Warrant may,

and

and must by distress take into their hands so much of the offendors Goods to pay the same. And if he pay not the monie within three dayes after the distress taken, they must appriſe and sell the same Goods, and keep up the same monie; and if there be any overplus, they must render the same to the partie. And if the partie shall not have Goods, &c. or shall not pay the same within six dayes after conviction, then the Justices of Peace, &c. may commit the offendor to any of these Officers to be openly whipped, according to the discretion of the Justices of Peace. The which these Officers (being charged herewith) must see they carefully doe; for otherwise they may be committed to Gaole by the same Justice of Peace, there to abide without Bayle or Mainprise until they doe procure the same offendor to be whipped according to the Warrant of the Justice of Peace, or untill they pay fourty shillings unto the use of the Poor of the Parish. 3. If any person lycenced shall utter or sell less than one full Ale-quart of the best Beer or Ale for one penny, and of the small two quarts for one penny (the same being proved by one witness, before one Justice of Peace) shall forfeit twenty shillings. And if any person whatsoever, Townsman or Stranger, shall be and abide tipling in any such house (the same being proved by one witness or the parties own confession, before one Justice of Peace:) In this Case, and for this offence, the Inne-keeper, &c. owner of the house, for suffering this in his house, doth forfeit ten shillings for every such offence.

And

And the party that doth ſo tipple, doth forfeit for every ſuch offence three ſhillings four pence, and theſe ſummes are to be levyed by the Conſtables and Church-wardens of the place where the offence is done, by diſtreſs and ſale of the offendors Goods, upon Warrant from one Juſtice of Peace. And if the Inn-keeper, &c. have no Goods to be diſtrained, he may be by the Juſtice of Peace committed to the Gaole, there to be kept until he pay the monie: And if the Tipler be not able to pay his forfeiture, he is by Warrant from a Juſtice of Peace to be made to ſit in the Stocks four houres. And all theſe ſummes are to goe to the uſe of the Poor of the Pariſh where the offence is committed. And in caſes of forfeiture by Inne-keepers, &c. for ſelling by unlawfull Meaſures, or for ſuffering Tiplers in their houſes, if the Conſtables or Church-Wardens ſhall neglect to levy, or ſhall not levy the ſaid ſeveral forfeitures, or in default of diſtreſs ſhall neglect by the ſpace of twenty dayes to certifie the ſame defaults of diſtreſs to the Juſtices of Peace; then every ſuch Church-warden or Conſtable ſhall forfeit for every ſuch default fourty ſhillings to the uſe of the poor of the ſame place, to be levyed by Warrant from the Juſtices of Peace to ſome indifferent men. And for want of diſtreſs, the ſame Conſtables and Church-wardens may be by any Juſtice of Peace committed to the common Gaole, there to abide untill they pay the forfeiture. And for all theſe monies ſo recovered by the Church-wardens or Conſtables, they ſhall be accountable to their

ſucceſſors

ſucceſſors and other the Pariſhioners in ſuch ſort as they uſually be in other Church reckonings or accounts. And for the forfeitures levyed by others upon the Officers, they that levy the ſame ſhall be accountable therefore. And if any man be drunk, and thereof convict, he is to forfeit five ſhillings for the ſame, which he is to pay within a week after the conviction to the Church-wardens, to the uſe of the poor of the place, to be levyed (on the neglect or refuſall of the party to pay it) by Warrant from the Court, Judge, or Juſtices, before whom the ſame conviction was, upon the offendors Goods. And this Warrant may be made to the Conſtables or Church-Wardens. And if the party be not able to pay it, then he is, by Warrant from the Juſtice of Peace, to be ſet in the Stocks, and there to ſit ſix houres. And for the ſecond offence, he is to be bound to the good Behaviour. And all theſe Officers are in their oaths, incident to their Offices, to be charged to preſent the offences againſt the Statute of 1 *Jac.* and 4 *Jac.* which are for ſelling by unlawfull meaſures, tipling, or ſuffering tipling and drunkenneſs, and in caſes of forfeitures for drunkenneſs, and for tipling againſt the tiplers themſelves, & for not making preſentments, being required; If theſe Officers or the Church-wardens ſhall neglect their duties in levying the ſaid penalties, and due correction of the offendors as aforeſaid, they ſhall forfeit for every default ten ſhillings, to the uſe of the Poor, to be levyed, as aforeſaid, by Warrant from the Juſtice of Peace, &c. But for drunkenneſs or tipling no man may be proſecuted

ſecuted after ſix moneths after the offence committed: And yet for ſuffering tippling and ſelling by unlawfull Meaſures, the Alehouſe-keeper, &c. may be puniſhed at any time. In all theſe caſes and upon all theſe Statutes, the Officers are to take care when any Warrant is ſent unto them from any Juſtice of Peace, Major, Bayliff, &c. that they ſee it duely and carefully executed, for fear of the leverall puniſhments aforeſaid.

SECT. 10.

Of the Office of the High-Conſtable *and* Petit-Conſtable *about May-Poles, Stage-Playes, Cloathiers, Diſturbance of Miniſters, Labourers and Servants; Moneys forfeit about Highwayes, making Supraviſors for Highwayes; ſuch as have the Plague, Hedg-breakers, Maulters, &c.*

1. NO May-Pole may be ſet up, and if any be, they muſt be forthwith taken down by the Conſtables, Tythingmen, and Church-wardens, of the place under pain of five ſhillings a week, to be forfeited by theſe Officers till it be pulled down. And if any Juſtice of Peace ſend his Warrant to the Conſtables, or Church- *May Poles. Numb.* 1.

wardens of the place, to levy this money on the Offendor, he must doe it. *Ord.* 9. *Dec.* 1646.

Stage Playes. Numb. 2. 2. No Stage-Playes may be acted, the Actors are to be punished as Rogues: The Spectators forfeit five shillings a time, and the money collected is forfeit. And if any Warrant come from a Justice of Peace to the Church wardens or Constables of the place, to levy these forfeitures, they must execute it, *Ord.* 11. *Febr.* 1647.

Clothiers. 7 *R.* 2. 9. *Fitz. J. P.* 203. *Numb.* 3. 3. He that shall espy and prove defaults in any Cloth set to sale, against the Assize appointed for Cloths, and against the form of the Statutes, shall have the third part of every such defective Cloth for his travell, by the delivery of the Sheriffs, if they be present, or the Lords of Faires and Markets; or of the Stewards, Bayliffs, or Constables of the places where the said defective Clothes are found by Indenture made between them: The which Indentures must be delivered yearly at the Feast of St. *Michael* into the Exchequer, to the intent to charge the Aulvegers and Collectors, by whom such defaults should be searched and amended. By which Statute this Officer being req[illegible] is to take and deliver a third part of a[illegible] Clothes as are found so defective by I[illegible]enture.

Disturbance of Ministers. 1 *Mar.* 3. *Numb.* 4. 4. None may purposely by word or deed [as by talking, laughing, hemming, or the like] without authority, disturb a Minister in his preaching of the Word, praying, or administring of the Sacraments: And if any do so, any one of the Constables or Church wardens

of

of the place may of his own authority preſently apprehend him and carry him to a Juſtice of Peace of the ſame County, who may (if he think it meet) commit him to ſafe cuſtody; and within ſix dayes after, taking with him another Juſtice of Peace, muſt examin the matter; and if by proof of two witneſſes they finde it true, they muſt commit the party to Gaole, where he is to be for three moneths.

Laborers and Servants. 5 *Eliz.* 4. *Numb.* 5.

5. Any one of theſe Officers may, and muſt in the time of Hay or Corn Harveſt, upon requeſt to him made by any man, and for the avoyding of the loſſe of Corn, Grain, and Hay, cauſe all ſuch Artificers as he ſhall ſee meet to labour, to ſerve by the day, for mowing or otherwiſe, for the getting in of Corn or Hay abroad, according as they ſee them fit; And if ſuch Perſons ſhall refuſe to work as aforeſaid, being thereunto required by the Officer; the Officer may put him in the Stocks by the ſpace of two dayes and one night: And this if the Officer ſhall neglect to doe, he ſhall forfeit fourty ſhillings. No perſon retained in Husbandry, or in any Arts appointed by the Statute of Laborers, made in 5 *Eliz.* may depart after the time of ſuch retayner expired, out of the Town or Pariſh where he laſt ſerved, to ſerve in another, unleſs he have a Teſtimoniall under the Seal of the Conſtable, or other ſuch officer, and two other honeſt Houſholders of the Town or Pariſh where he laſt ſerved, according to this form. *Memorandum, That* A. B. *late Servant of* C. D. *of* E. *in the County of* G. *Husbandman*

Departing without a Teſtimoniall. 5 *Eliz.* 4. *Numb.* 6.

(or Taylor, &c.) *is licenced to depart from his said Master, and is at liberty to serve elsewhere, according to the Statute in that case made and provided. In Witness whereof, &c. Dated the day, moneth, year, and place of the making thereof.* The which Testimoniall, the Minister of the Parish where such Master, Mistris, or Dame doth dwell, ought to register, taking only two-pence therefore. And if any such person be admitted into any other service without shewing any such Testimoniall to the Constable, or such other Officer, Curate, or Church-wardens of the place where he shall be accepted, he shall be imprisoned untill he procure such a Testimoniall; the which if he doe not within twenty one dayes, next after the first day of his imprisonment; or if he shall bring a counterfeit Testimoniall, he is to be whipped as a Vagabond, and he that shall receive any such person into his service doth forfeit five pound for every such offence.

Monyes forfeit for high-wayes and making Supravisors for the high-wayes 2. & 3. Ph. & M. 8. Numb. 7.

6. First, The pety-Constables, &c, are to joyn with the Church-wardens to take the Estreats of the forfeitures of offendors against the Statutes for the High-wayes: And they are to call the high-Constables to account for the Monies they have received of such offendors, and to take the same monyes into their hands, and to bestow the same upon the reparation of the high-wayes of the place. Secondly, The Constables and Church-wardens of every Parish ought yeerly upon the Tuesday or Wednesday in Easter week, to call together a number of the Parishoners, and to choose two honest men

men of their Pariſh to be Surveyors of the work for amendment of the high-wayes within their Pariſh, leading to any Market Town; and then ought alſo to appoint ſix dayes for the amendment of thoſe wayes, before Midſomer then next following, and ought alſo openly in the Church, the next Sunday after Eaſter, to give knowledge of the ſame ſix dayes, upon pain of fine, making to be aſſeſſed by the Steward of the Leet: or in default thereof, by two Juſtices of the Peace, in open Seſſions, as in their diſcretion ſhall be thought meet

About perſons that have the Plague. 1 *Jac.* 31. *Numb.* 8.

Any one of theſe Officers [in times and places of infection with the Plague] (if the infection be out of any City, Borough, Town, Corporate, priviledged place, or Market Town) may command or appoint, Perſons infected, or being, or dwelling, in any houſe infected, to keep their houſe, for avoyding of further infection: And if notwithſtanding ſuch Perſons, doe wilfully and contemptuouſly diſobey ſuch direction, and appointment, offering, and attempting, to break or goe abroad, and to reſiſt, or going abroad and reſiſting ſuch keepers, or Watch-men as are appointed to ſee them kept in: It is lawfull for ſuch Watch men, with violence to enforce them to keep their houſes. And if any hurt come by ſuch enforcement to ſuch diſobedient Perſons the ſaid keepers, Watch-men, and other their aſſiſtants, ſhall not be impeached thererfore. And every infected Perſon, ſo commanded, by any of theſe Officers, to keep their houſe,

which contrary to ſuch commandement wilfully and contemptuouſly goeth abroad and converſeth in company, having any infectious ſore upon him uncured, becometh Felon: But if ſuch perſon have not ſuch ſore found about him, then for his ſaid offence he is to be puniſhed, as a Vagabond, and ought to be by Stat. 36 *Eliz.* 4. and further to be bound to his good behaviour for a year. 2. The Conſtable, &c. that ſhall wilfully make default in levying ſuch money as they ſhall be commanded to levy by the Warrant of two Juſtices of the Peace, upon the Statute for the relief of any Town infected with the Plague, ſhall forfeit for every ſuch offence ten ſhillings.

Hedg-breakers. 43 *Eliz.* 7. *Numb.* 9.

8. If a Juſtice of Peace, ſend his Warrant, to any one of theſe Officers, for the whipping of any perſon, convicted before the Juſtice for robbing of Orchards, cutting or pulling up of Wood, Corn, or any ſuch like treſpaſs; the Officer muſt by himſelf or ſome other, ſee that the ſame be done accordingly; for otherwiſe for his neglect therein, he is to be committed to Gaole by the ſame Juſtice of Peace, and there to be kept untill he doe procure the ſame Perſon to be whipt, according to the ſame Juſtice of Peace Warrant.

Maulters. *Numb.* 10.

9. The Conſtables, alſo of every Borough, or Town, may ſearch, and ſurvey, all ſuch Mault as ſhall be made, or put to ſale there; and if they finde any Barley-Mault made at any time (the moneths of *June*, *July*, and *Auguſt*, only excepted) but that the

the ſame ſhall have the ſpace of three weeks, at the leaſt in the Fat, Floor, ſteeping, and ſufficient drying thereof. And in theſe three moneths the ſpace of ſeventeen dayes at the leaſt: or if he finde any perſon to put to ſale any good Mault mingled with Mault not ſufficiently made, or with Mault made with Mow-burnt or ſpired Barley; or that put to ſale any Mault not ſufficiently well trodden, rubbed and fanned, whereby half a peck of duſt or more may be fanned out of one quarter thereof; then may ſuch Conſtable, with the adviſe of one Juſtice of Peace of that Shire, cauſe the ſame Mault to be ſold to ſuch perſons, and at ſuch reaſonable prices, under the common price of the Market, as to his diſcretion ſhall ſeem fit. But ſome ſay this doth not belong to ordinary Conſtables, but to the head Conſtables of Corporations. It ſeems to me otherwiſe.

SECT. II.

Of the Office of High-Constable *and* Petit-Constable *about Recusants, Dressing meat in Lent, Purveyors, Souldiers departing from their Commanders, abjured Persons, imployment of Money given to Charitable uses, Takers of Pheasants, &c. Fish, High wayes in* Kent, *stoned Horses, Colledge of Physitians.*

Recusants. 1. THe Constable and Minister of the Parish, must take and enter into a Book, and certifie to the next Quarter-Sessions, the names of all Recusants sent thither by order, 35 *Eliz.* 8. 2. These Officers, if required by lawfull Warrant, must apprehend Popish Recusants excommunicate, 3 *Jac.* 4.

Lent. No Butchers may kill or sell meat in Lent, under pain to forfeit it. And these Officers may seize it, and give it to the Poor: 1 *Jac.* 19.

Purveyors. If any Cator, or other, shall (without lawfull bargain) take upon him to purvey, or take up any thing whatsoever of another, against his will, to the use of any great Lord, or other person, and the party grieved give notice thereof to the Constable, or such Officer of the place; In this case, and hereupon the Officer (*viz.*) the Constable or Tything-man of the place,

place, muſt, under pain of twenty pounds arreſt ſuch Taker, and carry him to the next Gaole, where he is to remain without Baile or Mainpriſe, until he redeliver the things ſo taken or the value thereof.

Souldiers. Any one of theſe Officers may arreſt Souldiers arriving here, that they ſuſpect to have been in the ſervice of the State, & are departed from their Captains without leave, 18 *Eliz.* 19.

Perſons abjured Perſons abjured to goe to any Port, it ſeems muſt be conveyed by theſe Officers.

Money given to charitable uſes. Theſe Officers are to joyn with the Miniſter, Church-Wardens, and Overſeers of the Poor, where monie is given for the placing of poor children apprentices in the imployment thereof.

Takers of Pheaſants, &c. Theſe Officers may ſearch ſuſpect places for ſetting Dogs and Nets to take Partridges and Pheaſants. And the Church-Wardens may ſue for and recover the forfeiture, 23 *Eliz.* 10. 7 *Jac.* 11.

Takers of Fiſh. Theſe Officers and the Church-Wardens being commanded by a Juſtices Warrant muſt levy the forfeitures upon ſuch as take Fiſh with unlawfull Nets, 3 *Jac.* 12.

High-wayes in Kent. The penalties of the Statutes, for repair of High-wayes in the wealds of *Kent*, *Surrey*, and *Suſſex*, are to be levyed by theſe Officers, by Warrant from the Clerk of the Peace, or two Juſtices, one of the *Quorum*, 39 *Eliz.* 19.

Stoned horſes. Conſtables in *Cambridg-ſhire*, and the Iſle of *Ely*, being deſired, muſt meaſure the ſtone-horſes that goe in the Common; and muſt yearly drive the Common, 32 *H.* 8. 13. 8 *Eliz* 8.

Colledge of Phyſitians. Theſe Officers in *London*, and within ſeven miles thereof, are to attend upon the Colledge

ledge of Physicians, being thereunto required, 14 *H.* 8. 5.

SECT. 12.

Of the Duty of High-Constables *and* Petit-Constables *in attending the Justices, setting and making of Presentment.*

THe High-Constables and Petit-Constables are to attend upon, aid, and assist, and execute the Warrants of the Judges of Assise at their Assises and Gaole delivery. And the Justices of Peace, at their generall and speciall Sessions, and other meetings, and there (upon Oath, and in writing if it be required) to make presentment unto them of such things, and to such Articles as these. 1. If *Hue and Cry*, for apprehending of Fellons, have been duely made and followed, and by whom neglected 2. If Watch and Ward have been duely ordered and observed, and who is faulty therein. 3. If Rogues have been duely apprehended, punished and conveyed away to their place appointed, and who is faulty therein. 4. If the Statute of Laborers be observed, as if the Rates of wages be observed, what Servants or Apprentices have put themselves off, or are put away before their term be ended, and what is become of the Servant or Apprentice; what unmarried persons of able bodies live out of Service, not having means otherwise to live then

then by their Service. If they work, who ſets them to work: What perſons live idly and will not work, or not for reaſonable wages, or ſpend all at the Ale-houſe. 5. Of ſuch as lodg and harbour dangerous and ſuſpicious perſons, for whom they will not anſwer. 6. If Bakers and Brewers keep due Aſſize of Bread and Beer: or that ſell unwholſom Bread or Beer. 7. Such as ſell by falſe weights and meaſures. 8. Foreſtallers, Regrators, Ingroſſors. 9. What Cauſe-wayes, Bridges, and High-ways are in decay, and by whoſe means. 10. Millars. 11. They muſt alſo preſent the offences done contrary to the Statutes made for the repreſſing of Drunkenneſs, and other diſorders, and ſuch Articles as theſe: 1. What number of Ale-houſes are within their limits. 2. Which of them are licenced, and which not, and by whom. 3. Which of them licenced are, in regard of their perſons and dwellings, fit to ſell. 4. Who keep ill order by keeping Gaming, harbouring Rogues and Theeves, ſuffer Tipling, Drunkenneſs, &c. ſelling by unlawfull meaſures, meaſures unſealed, or leſs than a quart of the beſt, and two quarts of the ſmall for a penny. 12. Of the Defaults of High-wayes not enlarged, and of Ditches, Underwoods, and Buſhes there, to cover Theeves, within two hundred foot. And if they be charged, they muſt give account to all the particulars of their Office: And for any neglect or fault herein, the Juſtices may puniſh them by Indictment or otherwiſe, as in other like caſes of neglect or contempt of them.

CHAP.

Chap. IX.

The Power and Duty of the High-Conſtable *alone, and in ſpeciall; and beyond the Power of the* Petit-Conſtable.

Sect. I.

Againſt Cloathiers and their Workmen.
4 Ed. 4. 1.
Fitz. J.P. 203.

He High-Conſtables Office lyeth further in theſe things following. The Makers of Cloath ſhall pay to their Carders, Spinners, and other Laborers in lawfull money, [and not in Pinns, Girdles, or ſuch other things] for their work, under pain to forfeit three times ſo much as their wages. And they muſt deliver them their Wooll by due weight: And the Carders, Spinners, Fullers, Dyers, Sheremen, and other Laborers

Laborers ſhall doe their work faithfully, under pain to forfeit double damages. And the Conſtable of the Hundred may hear and determine the complaints of every ſuch Cloathier and Draper, as well for not payment of the wages of the Laborers, as of the forfeiture and damages by due examination of the parties. And hereupon alſo, for not payment of the ſaid Duties, Forfeitures, and for the Damages, to commit the Treſpaſſers to the next Gaole of the ſame County, until the ſaid Duties, Forfeitures, and Damages be paid. Alſo they may enter into any Houſe, Land, or other place, to ſearch for any Tenters, Ropes, Rings, Head-wrinches, or other Engins for ſtretching of Cloath, and deface them: And if the owners ſhall afterwards uſe them, theſe Officers may take and ſell them, and give the monie to the Poor.

SECT. 2.

Of the High-Conſtables *Office in receiving and paying of the Rates.*

1. THe Juſtices of the Peace or the more part of them, at their quarter-Seſſions, may Rate every Pariſh within the Shire at ſuch ſumms as they ſhall think fit, towards the relief of the poor Priſoners within the common Gaole of the Countie, ſo as it exceed not eight pence a week in every Pariſh; and this the Church-wardens muſt levy [within their Pariſhes] on the Sundayes, and once every

Rates for the Priſoners in the common-Gaole. 14 *Eliz.* 5.

every quarter they must pay the same to the High-Constable, who must also pay over the same again at the next Quarter-Sessions of the same County, to such Collectors living neer the same Gaole as the said Justices shall there appoint to receive it; the which Collectors are to distribute the same weekly, according to the said Justices appointment, under pain of forfeiture of five pounds, by every one of these Officers making default herein.

Rates for the Upper-Bench and Marshalsey. 43 *Eliz.* 2.

2. They are to receive the monies rated by the Justices upon the County, for the relief of the poor Prisoners in the upper-Bench and Marshalsey quarterly, from the Church-Wardens of the Parishes within their Division ten dayes before the end of the quarter, and then they are at the next quarter-Sessions, to pay over the same to the Collectors appointed by the Justices, under pain of twenty shillings for every default.

Rates for the maimed Souldiers. 43 *Eliz.* 3.

3. They are also to receive the monies rated by the Justices of Peace on the County, for the relief of maimed Souldiers and Mariners, ten dayes before every quarter-Sessions, from the Church-Wardens and Constables of every Parish within their Division. And then the High-Constable, at the same Sessions, must pay over the same monie to any one or two of the Justices of the Peace, or to the Treasurer of the County, for this purpose, under pain of fourty shillings to be forfeited for every default. But in these three last cases, it seems the High-Constables doe now usually send out their Warrants to the Petty-Constables and Church-

Church-Wardens, to require them to bring in the monies aforesaid.

SECT. 3.

The High-Constables *Power and Duty about High wayes.*

ESTreats indented, ought to be made by the Clerk of the Peace, and by the Steward of the Leet, of all forfeitures arising in the Sessions of the Peace, or in the Leet, upon the Statutes of High-wayes; of which Estreats, one part ought to be delivered yeerly within six weeks after *Michaelmas*, to the High-Constable of the Hundred wherein the defaults were committed; and the other part to the Constables and Church Wardens of the Parish wherein the defaults were, to the end that such High-Constable may thereby levy by distress the same forfeitures, or the double thereof if no distress can be found, or if such forfeitures be not paid within twenty dayes after a lawfull demand of the same by the Officer, and to the intent also that the said Constables and Church-wardens may thereby call the said High-Constable to an account before two Justices of Peace (the one being of the *Quorum*;) for the said High-Constable is once every year, between the first day of *March* and the last day of *Aprill*, to make a true account and payment of all such summs of monie as he hath received by means aforesaid, to the Petty-Constables or Church-Wardens of the place

About high-wayes. 2. & 3. *Ph.* & *M.* 3. 5 *Eliz.* 13.

where

where the offence is committed, or any two of them, under pain of fourty shillings. And this if they refuse to doe, they may be compelled unto by the Church-Wardens, by the help of any two Justices of the Peace (the one being of the *Quorum:*) And this monie is to be bestowed by the Church-Wardens on the High-wayes of the Parish. And upon this account the High-Constable is to have for his pains eight pence for every pound he hath levyed and paid.

SECT. 4.

Of the Power and Duty of the High-Constable *alone, about keeping petty-Sessions, Sea-banks in* Northfolk, *presenting of Recusants.*

Keeping petit Sessions. 5 Eliz. 4.

THe High-Constables in all such Shires where the petit Sessions for Servants and Laborers (otherwise called Statute Sessions) were used to be kept before, 5 *Eliz.* may yet still hold their Sessions; so that nothing be done in them contrary to the Statute of Laborers and Servants, made 5 *Eliz.* 4.

Sea-banks in Norfolk. 29 Eliz. 24.

The High-Constables of Hundreds there, must overlook the work for amending the Sea-banks, according to the order of the Justices of Peace at Sessions.

Making Presentment of Recusants. 3 Jac. 4.

The high-Constable in default of the Church Wardens and Constables of the Parish, is once a year to present at the Sessions, the names of Popish Recusants, their Children, and Servants.

CHAP.

Chap. X.

Of the Office of Conſtables *of Towns that are head Officers, and have others under them, about Weights and Meaſures, unlawfull Games, Coopers, Merchandiſe, making Mault.*

Here are alſo in ſome places Conſtables of Towns or Pariſhes that are head Officers, and have others under them. And theſe in ſome Corporate Towns are part of the name of their incorporation. And in ſome places they have other Officers under them. And this Officer is in ſome Statutes called a High-Conſtable. And to him doe ſome of the things aforeſaid belong in common with other Conſtables, as to make a Teſtimoniall for a

Servant to goe into another Parish; to compell an Artificer to work in the Harvest time; and some other things. And some other things there are, that are said to belong to the Constable of a Town only, and to none other of the Officers aforesaid, as the things hereafter mentioned, *viz.*

Weights and Measures.
8 *H.* 6. 5.
11 *H.* 7. 4.

1. Every City, Borough, and Market Town that hath a Constable, ought also to have common measures sealed; and also common weights sealed, at which the Inhabitants may freely weigh.

Unlawfull Games.
13 *H.* 8. 9.

2. The Major, Sheriffs, Bayliffs, Constables, and other head Officers within every City, Borough and Town where any such Officers be, ought under pain of fourty shillings for every default, once every moneth at the least, to make search (as well within Liberties as without) in all places where any unlawfull Games shall be suspected to be kept, and may arrest and imprison as well the keepers of such places as the haunters to the same, till they be bound no more to keep and haunt such places. And if any such Head Officer shall finde, or know, that any Artificer, Crafts-man, Husband-man, Apprentice, Laborer, Servant at Husbandry, Journy-man, or Servant of Artificer: Or that any Mariner, Fisher-man, Water-man, or Serving-man, doth play at the Tables, Dice, Cards, Tennis, Bowls, Closh, Coyting, Logating, or other unlawfull Game out of *Christmas* time, or out of their Masters house or presence in the *Christmas* time, unless it be by the licence of such Masters as have 100 l. by the year, or above and then also that playing

playing be within the precinct of ſuch Maſters Houſe, Garden, or Orchard, then ſuch head Officer may commit ſuch offendor to Ward, till he ſhall be bound by ſuch obligation to the uſe of *The Keepers of the Liberty, &c.* in ſuch ſum, as to the diſcretion of ſuch Officers ſhall be thought fit, that he ſhall not from thence forth uſe ſuch unlawfull Games.

Coopers. 23 H. 8. 4.

3 In all Cities, Boroughs, and Towns, wherein no Wardens of *Coopers* be, the Majors, Sheriffs, Bayliffs, Conſtable, or other head Officers there, have power to ſearch, view, and gage Barrels, Kilderkins, Firkins, and other veſſels to be made there, and to take ſuch advantage thereby, and in ſuch manner as the Wardens of *Coopers*, within the Citie of *London*, may take on every behalf.

Merchandize. 14 H. 6. 5.

4. If any Woolls or other Merchandize, be ſhipped to the Staple in any ſuſpected place adjoyning to the Coaſt of the water, then Indentures ought thereof to be made between the owner and the Major or Conſtable of that place; or otherwiſe ſuch Merchandize ſhall be forfeited.

Making of Mault. 27 *Eliz.* 14.

5. The Conſtable of every Borough or Market-Town, or other Town may view, ſearch, and ſurvey all ſuch Mault as ſhall be made or put to ſale there: And if he ſhall finde any Barley-Mault made at any time (the moneths of *June*, *July* and *Auguſt* only excepted) but that the ſame ſhall have the ſpace of three weeks (at the leaſt) in the Fat, Floar, Steeping, and ſuch ſufficient Floar, Steeping, and ſuch ſufficient drying

thereof, and in these three moneths, the space of seventeen dayes at the least. And if he finde any person to put to sale any good Mault mingled with Mault not sufficiently made, or with Mault made of Mow-burned or spired Barley; or put to sale any Mault not sufficiently well trodden, rubbed, and fanned, whereby half a peck, or more, of dust may be fanned out of one Quarter thereof; then may such Constable (with the advice of one Justice of the Peace in that Shire) cause the same Mault to be sold to such persons and at such reasonable prices (under the common price of the Market) as to his discretion shall seem expedient.

All these things last aforesaid appertain only to the head Constable of Market and great Towns, and, as it seems, the High-Constables of Hundreds, and petty-Constables, and Tything-men of Parishes and Tythings, have no power nor charge at all therein. And yet beware of this, for perhaps they may be otherwise taken.

It is said upon the Statute of 7 *Jac.* 3. for the imployment of money given for the binding of Apprentices. The Statute of 3 *Jac.* 12. against the destroying of Fish. The Statute of 1 *Jac.* 4. for the presenting of Recusants. The Statute of 1 *Jac.* 21. against them that are infected of the Plague. The Statute of 1 *Jac.* 29. against them that dress meat in the Lent, and some others; that upon these Statutes Borsholders, Tythingmen, Head-Borows, and such like Officers being in Towns or Parishes (underneath Constables

bles that be there) have nor to doe, nor may meddle, becauſe ſuch Conſtables be in compariſon of them called head Officers; But where no ſuch head Officers are, nor any Officers in the place that are called by the names of Conſtables, but that they are called Tything-men, Chief-Pledges, Borſholders; or by ſome other name there, out of doubt theſe Officers are intended by the word Conſtable within the Statutes, and they have the ſame authority and charge by the ſame Statutes as the Conſtables have.

CHAP. XI.

Of Church-Wardens, *and their Office.*

CHurch-Wardens are Officers choſen yearly by the major part of the Pariſhioners, according to the cuſtom of the place, to look to the Church and Church-yard, and things thereunto belonging. Theſe now by the new Ordinance of the ninth of *February* 1647. where they have been uſed to be, are to be choſen every year on the

Numb. 1. *What they are, and how they are choſen.*

Monday or Tuesday in the Easter week, by the major part of the Parish, at a publique meeting; And they may choose one, two, three, or four, as they please. And if the Parish doe omit this Election, it loseth fourty shillings to the use of the Poor of the Parish. This choice also must be allowed under the Hands and Seals of two of the next Justices of Peace. And being thus chosen, they are to continue in their Office but one year, and no longer, except there be a custom for longer time, and except they be chosen again in the same manner at the years end, otherwise they are to be changed every year. And in case of miscarriage in their office, they are to be put out, and others chosen within the year. And albeit there be a Custom within the Parish, that the Church-wardens shall continue in their Office by the space of one year, two years, or more, (as in some places there is) yet in case of misdemeanor found in them, about the execution of their Office, the Parishioners may at any time proceed to a new election of new, and remove the old Church-wardens; for there is no other remedy against this evil. In the choise of these Officers care must be had, as in the choise of Constables, that there be none but honest and able men chosen to the Office.

Numb. 2. *Their Office and Duty.*

For the discovery of the Office and duty of these Officers, these things are to be known. 1. That for some things belonging to their Office, they have a power and Office therein by the ancient Common Law: And for

for other things belonging to their Office, they have a Power and Duty therein, by certain Acts of Parliament newly made, by which their Office is enlarged. And for this last also, some things hereof doe concern the Church and Church matters. Other things doe concern other matters. Some things also they may doe *Ex Officio*, and without any warrant from others. Other things they may doe only by warrant from others. We shall speak first to the matter concerning the Church.

2. By the ancient Common Law, the Office of the Church-wardens doth lye in these things. 1. They are to see to, and preserve the Goods of the Church (*viz.*) the Books, Communion Cups, Linnen Cloaths, and other decent Ornaments and Furniture of the Church which they doe finde there, when they enter into their Office. And if there be any lack in these things, they are to see and provide them, and being provided, preserve and keep them also. And for this purpose (in favour of the Church) the better to enable them herein, the Law doth make of them a kinde of Corporation (*viz.*) persons enabled by that name to take moveable Goods or Chattels, and to sue and to be sued at Law concerning such Goods, for the use and profit of their Parish. For the property of the Goods of the Church is in them, and they are by that name enabled to take them, and to be sued for them, for the use and profit of the Parish. And therefore these Officers may have and enjoy Goods to the use

Numb. 1. *In providing and keeping the Church Goods.*

Corporation.

of the Church. And a Man may well, in his life time, or by his laſt Will, give or grant monie or other movable things to the Church-wardens, or to the Pariſhioners of a Pariſh, for the Reparations of a Church, or for the buying of Books, Communion Cups; Linnen Cloaths, or other decent Ornaments or Furniture for the Church. And this kinde of Gift is ſo much favored in Law, that it is not needfull therein to have any Writing or words at all. For if a man doe but buy a Bell, and hang it up in the Steeple; or make a Pew, and ſet it up in the Church, and doe make no words or writing hereof; by this the Bell and the Pew are ſo dedicated and given to the Church, that the party that did owe them, can never have them again. And if any Goods or Chattels be deviſed to the Church, and be kept from it, the Church-wardens may by Suit recover it in a Court of Equity. But they can have no Action by the Common Law, to recover any ſuch thing given, of the which they never had the poſſeſſion: But if the Church-wardens be once poſſeſſed of any Goods or Ornaments belonging to the Church, and afterwards the ſame things be taken from them; they ſhall have the ſame remedie for theſe things, as other men have for the Goods taken from them; And therefore if ſuch Goods be ſtollen, the Church-wardens may have an Appeal of Robbery againſt the taker of them. And if they be otherwiſe taken away or abuſed, as if a Bell be broken, or the like, the Church-wardens may

Actions by, or againſt them.

may have an Action againſt him that doth it, albeit he be the Parſon or Vicar himſelf. And in this Action they ſhall recover damages to the uſe and benefit of the Pariſh, and not to their own uſe. And yet theſe Officers have no ſuch property in the Goods of the Pariſh, as thereby to have power to give, ſell, releaſe, hurt, or impair them; for they are Officers truſted for the behalf of the Pariſh; and therefore have no power in the Goods of the Pariſh, but for the good and profit of the Pariſh. And therefore if they ſhall ſo doe, or otherwiſe unprofitably waſte or miſ-imploy the Goods of the Pariſh, the Pariſhioners may remove him, and chooſe another, although it be before his year be expired. Alſo it ſeems the party that doth ſteal or take away any Goods belonging to the Church, may be puniſhed for it, as for a Sacrilegious offence. And if theſe Church-wardens, from whom the Goods be taken, dye, or be out of their Office; their ſucceſſors (as ſome think) may ſue for and recover them, or the damages for them: Or if theſe Church-wardens may not, the old Church-wardens may ſue for, and recover the ſame. And if anything have been uſed time out of minde, to be paid towards the Church, and it be now withheld, the Church-wardens may ſue for the ſame in a Court of Equity. But as touching any Eſtate of Lands, or the profits of any Lands, the Church-wardens are not to meddle at all; inſomuch, That if the Walls, Windows, or Dores of the Church be broken down, or the Trees in the Church-

Church-yard cut down, or the Graſs thereof be eaten up; the Parſon or Vicar, nor the Church-wardens ſhall have an Action for it; for they are a Corporation onely as to moveable Goods. And therefore they cannot take Eſtates of Lands to them, by name of Church-wardens only, in Fee-ſimple, for life or years, to the uſe of the Church. And if a Feoffment be made of any Land to others, to the uſe of Pariſhoners, or to the uſe of the Church-wardens of a Pariſh: this is a voyd uſe in Law, and they ſhall take nothing by this conveyance. 37 *H.* 6. 30. 11 *H.* 4. 12. 8 *Ed.* 4. 6. *F. N. B.* 91. 11 *H.* 7. 27. 12 *H.* 7. 10. *F. N. B.* 52. 54.

Numb. 4. *In making of Reparations.*

2. Theſe Officers are bound by the very common Law, to take care, and look to the Body of the Church and the Tower, that the ſame be ſufficiently repaired, kept and maintained; and that if any of the neceſſary Ornaments therein appointed for the worſhip of God, be decayed, that they be repaired again; for there muſt be alwayes in a readineſs, all things neceſſary to the preaching of the Word and Adminiſtration of the Sacraments. And they are to ſee that their Bells be in caſe, and fit for uſe. But if the Chancel, (the which in moſt, if not in all places, is to be repaired by the Parſon) or any Iſle in the Church, the which any man doth claim by preſcription to himſelf, or his houſe in particular be in decay, the Church-wardens are not bound to repaire this. And now by the new Ordinance of Parliament

Parliament they may raiſe money, not to build a new Church quite down, nor to repaire a Cathedral or Collegiate Church, but they may raiſe money to maintain or repaire a Parochiall Church, provide Books, Bread and Wine for the Sacrament, repaire the Incloſures of the Church yard, or burying place, and to all other things that doe belong to their Office. And further, they muſt make ſuch reparations as any Juſtice of Peace ſhall under his Hand and Seal appoint about any part of the Church. *Bread and Wine.*

3. Theſe Officers (as it ſeems) by the Common Law are to order the Seats in the Church, and to appoint every man and woman where they ſhall ſit. And yet if any man have an Iſle, or a ſeat in an Iſle, or by-place out of the body of the Church, unto which he may make a right by preſcription, as that which time out of minde hath belonged or appertained unto his houſe; in this caſe, neither the Church wardens nor any other can turn him out of it. And albeit one may not preſcribe to have a Seat in the body of the Church, as belonging to his houſe, yet if the caſe be ſo, that a man hath time out of minde had ſuch a Seat or Seat-place in the body of a Church as appertaining to his houſe; in this caſe the Church wardens ought not without very good cauſe to remove him. 12 *H.* 7. 27. *Numb.* 5. *In diſpoſing of Seats.*

4. Theſe Officers alſo may by the very Common Law, to enable themſelves for the execution of their Office in the Particulars aforeſaid, may ſet Rates and Taxes upon the Pariſhioners *Numb.* 6. *In making and levying of Rates.*

Pariſhioners for the payment of money. And as touching this point, and to ſhew how the law is at this day upon the new Ordinance, theſe things are to be known. 1. Theſe Officers with the Over-ſeers of the Poor of the Pariſh, or the greater part of them together, muſt now make theſe Rates; for if they be otherwiſe made, there is no means to recover them. 2. Theſe Rates may be made before there be preſent need, as before the Church fall, or be in danger of ruine, or the like. 3. Theſe Officers may by theſe Rates raiſe money for the buying of Books, providing of Bread and Wine, repairing of the Church-yard or Burying place; for the *Kings Bench* and *Marſhalſey*, and other Payments. And ſo alſo, as it ſeems, for the repair of the Church, the Tower, and the Bells. 4. For this, they may rate every Inhabitant and Occupier of Lands, Tythes, Impropriate Woods, or other Hereditaments within the Pariſh. 5. The Church-wardens muſt give publick notice in the Church, when and where the Rate is to be made. Howbeit, if the Pariſhioners after ſuch notice given, will not come, or coming, will not agree to the Rate; in this caſe the Church-wardens and Over-ſeers of the Poor alone, or the major part of them, may make the Rate: But a Rate made now without giving notice thereof before hand to the Pariſh, is not good. 6. This Rate muſt be equall, and for this cauſe, It muſt be upon every Pariſhioner, and not upon ſome of the Pariſhioners only; and it muſt be ſet upon every

In making Rates.

every one of them equally, (*viz.*) according to the quantity and quality of his Eſtate and Lands within the Pariſh, wherein they may rate by the Yard, Acre, or otherwiſe, as they think fit; ſo as it be equall and according to the true value, by an equall proportion. And if one of another Pariſh have Lands in the Pariſh where the Rate is made, in his own occupation; in this caſe they may rate him to Church Paymenrs, according to the value of his Land. And this, Albeit there be no houſe upon it, and albeit the Owner and Occupier dwell in another Pariſh; for as to this purpoſe he ſhall be called a Pariſhioner; and therefore he may, *Pariſhioner.* if he pleaſe, come unto, and frequent the Church of that Pariſh, as he doth the Church of the Pariſh wherein he lives. And where the Land-lord and Tenant both doe live out of the Pariſh, it ſeems, the Curch-wardens may rate either of them at their Election. And yet ſome hold, that in theſe and ſuch like caſes, the Rate muſt be alwayes ſet upon the Occupier of the Land, and not upon the Land-lord. And if the Farmer or Occupier of the Land doe live within the Pariſh, where the Rate is made, there he onely, and not the Land-lord, ſhall be rated; and the Tenant is to be rated for the whole value of the Land; and therefore the Land-lord is not to be rated again for the Rent he doth receive out of the Land; for then the Land would be twice rated: And in this caſe there is a Pariſhioner and Inhabitant chargable. And Receipt of Rent out of a Pariſh

for

for Land within the Parish, by a man that lives in another Parish, will not make him a Parishioner. But if he have Land in the Parish in his own occupation; there he may be rated with this difference, he may be rated towards the repite of the Church only. For as to the repaire of the Seats of the Church providing of Church Ornaments, Sextons wages, and the like, he shall not be charged therewith, *Brownl.* 2. *part* 10. And yet, in case where the Land-lord and Tenant both live within the Parish where the Rate is made, there the Raters may set the Rate upon which of them they please; yet so as they be not both rated for the same thing: but a man that doth neither dwell within the Parish, nor hath any Land within the Parish, cannot be rated at all towards the Church Payments. And therefore, if a Butcher come thither, it being a Market Town, to sell Meat, and have a fixed Stall there; this will not make him a Parishioner, nor chargeable to the Church.

Numb. 7. 7. After the Rate is thus made by the Church-wardens and Over-seers of the poor, it must be put in writing, and the Hands of the Church-wardens and Over-seers of the poor, and of the Parishioners that are agreeing to it, it will be good to have annexed to it. But this is not necessary; for a Rate may be good without any Hands subscribed, if it be duely made. 8. The Rate thus made by them, must be confirmed by the two next Justices of Peace. 9. If any one refuse to pay them, being thus made, upon demand, the present or subsequent Church-wardens,

may

may by Warrant under the Hands and Seals of the two next Juſtices of Peace, levy them, and all the arrears thereof; and two ſhillings ſix pence for the neglect upon the Goods of the party appointed to pay it. 10. If any be grieved with the Rate, relief is to be had before the Juſtices of Peace, at their Quarter Seſſions. Or if the Rate be read by practiſe and conſpiracy to oppreſs a man, as for Alimony, or to pay a debt, and in caſes where the Church-wardens or Over-ſeers have no Power, there perhaps they may make themſelves liable to an Action of the Caſe or Action of Treſpaſs. *Over-rate.*

5. Theſe Officers are to relieve, and diſpoſe of the Rents of Lands or Annuities, given towards repair of Churches and Church duties according to the intent of the *Donor*.

6. The next thing theſe Officers by the Common Law, are bound to doe, is, When they are going out of their Office, they are truly to deliver up to the Pariſhioners, whatſoever Money or other things of right, belonging to the Church or Pariſh, they have in their hands; and it is the beſt way to deliver them by Bill indented to the ſucceeding Church-wardens. *Numb. 6. In delivering over the Church goods, and making an Accompt.*

7. The laſt thing theſe Officers are bound by the Common Law to doe, is, to give up a true and perfect Accompt of all their Receipts and Diſburſements in the time of their Office: The which, it is beſt to doe to the ſucceeding Church-wardens. And this if theſe Officers refuſe to doe, their ſucceeding

Church-

Church-wardens may now compell them to by an Action of Accompt at the Common Law. But now by the new Ordinance, they are bound within four dayes of their Office ended, and new Church-wardens choſen, to give an Accompt to their Succeſſors and the two next Juſtices of Peace, and to pay over the Money, in their hands, to their Succeſſors. And refuſing this, they are to be committed without Bail, till they doe Accompt, and pay the Moneys in their hands. And by this Writ of Accompt, at the Common Law, the preſent Church-wardens may compel their Predeceſſors to give an Accompt of, and to anſwer for their doings, during the time of their Office: And if they have done the Pariſh any wrong, to make amends and ſatisfaction for the ſame, to the uſe of the Pariſh, for the harm it hath received by their default. And in this Accompt, the old Officers ſhall have allowances for all the needfull ſums of Money laid out, or ſpent by them, either upon the Reparations of the body of the Church, Tower, or Bells; or for relief of the Priſoners in the Gaol, or otherwiſe where the Law doth enjoyn them to pay or diſburſe them.

Allowances.

And now having diſpatcht the Duty and Power of theſe Officers, commanded, and given to them, eſpecially by the ancient Common Law; we come to ſee wherein their Office is enlarged by ſome Acts of Parliament: And this we ſhall finde to be in theſe particulars following.

First.

First, We have ſhewed before, how by the late Ordinance of Parliament, theſe Officers may without warrant, *Ex Officio*, make and ſet Rates; and that by warrant under the Seals and Hands of two Juſtices of Peace, they may levy the ſame, and the arrears thereof, and two ſhillings, ſix pence by diſtreſs and ſale of Goods. And that they, may, and muſt alſo execute the Warrants of the Juſtices of Peace, in levying all the penalties appointed for any offence within that Ordinance of Parliament; and alſo, in levying of all ſuch money as ſhall be remaining in the hands of any of their Predeceſſors upon their Accompt, by diſtreſs and ſale of Goods. *Numb.* 9. *In making and levying of Rates and Forfeitures &c.*

Secondly, Theſe Officers are to joyn with the Over-ſeers of the Poor, and ſome others, in the imployment of money given for the binding of Apprentices, upon the Statute of 7 *Jac.* 3. *Numb.* 10. *In imployment of money given to charitable uſes*

Thirdly, Any one of theſe Officers may upon ſight and knowledge of any offence done againſt any Law made for the obſervation of the Lords day, dayes of Humiliation, or Thankſgiving, doe the ſame execution as Over-ſeers of the Poor may doe. *Againſt Prophaners of the Lords day.*

Fourthly, theſe Officers together with the Conſtable, may take down a May pole: And either of theſe Officers, by Warrant from a Juſtice of Peace, muſt levy the forfeiture appointed to be paid, for the ſetting and keeping up of a May-pole. *Ord. April* 6. 1647. *Againſt May-poles.*

Fifthly, Theſe Officers alone may levy *Againſt Stage-playes.*

the forfeiture appointed to be paid by ſuch as are preſent at Stage-playes. And theſe Officers, and the Conſtables together, may levy all the Money Collected of the Comers to it, to the uſe of the Poor. *Ord. Feb.* 11. 1647.

Againſt ſuperſtitious Reliques.

Sixthly, They muſt, being commanded by any Juſtice of Peace, take care with the Over-ſeers of the Poor, to take down and demoliſh all ſuperſtitious Reliques at the charge. And the Church-wardens being required by the Juſtice of Peace, muſt repair it as before, at the Pariſh charge. *Ord. May.* 1644.

Numb. 11. *Againſt Swearers.*

Seventhly, Theſe Officers may apprehend Swearers, and bring them to a Juſtice of Peace to be puniſhed, as Over-ſeers of the Poor may doe.

Againſt him that diſturbeth a Miniſter or abuſeth the Sacrament.

Eighthly, If any of his own Authority ſhall willingly, and of purpoſe, by open and overt word or deed, maliciouſly or contemptuouſly moleſt, or by any other unlawfull wayes, diſquiet or abuſe any Preacher lawfully Authoriſed in his Preaching or Divine Service; or otherwiſe contemptuouſly, or of his own Authority abuſe, deface; or otherwiſe unreverently handle, or order the Sacrament of the Body and Blood of Chriſt in any Church or Chappel: Such perſons, their Aiders and Abettors, may immediately after the thing done, be forthwith Arreſted by the Conſtable, theſe Officers, or any other perſon then preſent, and carryed to a Juſtice of Peace, to be proceeded againſt according to the Statute. *Stat.* 1 *M. Chap.* 6.

Ninethly

Ninethly, If any one doe without lawfull licence, eat any Fleſh upon any dayes, now obſerved for Fiſh dayes [the which (as it ſeems) are Fridayes and Saturdayes in every week in the yeer, but in *Chriſtmas* and *Eaſter* week, and the four Wedneſdayes in the four *Ember* weeks] he doth forfeit Twenty ſhillings for every time, and one Moneths impriſonment without Baile or Mainpriſe. And every perſon, in whoſe Houſe the ſame ſhall be eaten, knowing thereof, and not diſcloſing it to ſome Officer that hath power to puniſh it, ſhall forfeit for evey ſuch offence Thirteen ſhillings four pence; and one third part thereof, is to goe to the Poor of the Pariſh where the Offence is done, to be levied by the Church-wardens of the place, by Warrant from the Juſtices of Peace, &c. So that by this Statute, if any ſuch Warrant be directed to theſe Officers, they are to execute the ſame. *Stat.* 5 *Eliz.* 5. 27 *Eliz.* 11. 35 *Eliz. Chap* 7. And the Licence to be given for eating of Fleſh to any perſon for notorious Sickneſs, by the Miniſter of the Place, muſt be Regiſtred (if the Sickneſs continue above eight dayes after the Licence granted) in the Church Book. And this muſt be done, by the knowledge of one of the Church-wardens there. *Againſt them that eat Meat on Faſting-dayes.*

Tenthly, Theſe Officers are to joyn with the Over-ſeers of the Poor, in the execution of their Office throughout; for they have an equall Authority and Charge with them in the Execution of the whole *Numb.* 12. *About the Poor.*

Office; nay these in truth are the principal Officers in this Office, and the Over-seers are but Assistants to them; For so are the words of the Law, that they shall be joyned with the Church-wardens, &c.

About killing of Hares, Phesants, &c.

Eleventhly If any forfeiture be by any offence, about killing Hares, Phesants, or Partridges, and the Justices of Peace force the payment thereof to these Officers, they are to receive the money, and see it imployed to the use of the Poor of the Parish. *Stat.* 1 *Jac. Chap.* 27.

In levying money upon Rates, for the Prisoners in the Kings Bench, and Marshalsey

Twelfthly, These Officers are to joyn with the Constables of the place, to rate the whole Parish towards the payment of the County Rate of the Justices of Peace, for the relief of the Prisoners in the *Kings Bench*, and *Marshalsey*. And being rated, to pay the same to the High Constable of the Hundred once every quarter, under pain to forfeit ten shillings for every default. 43 *Eliz.*

For Mariners and maimed Souldiers.

Thirteenthly, They are also to joyn with the Constables, to rate the whole Parish towards the payment of the Justices Rate, for the County; for the relief of the Poor Marriners, and maimed Souldiers. And to collect and pay the same to the High-Constable, ten dayes before every quarter Sessions: under pain to forfeit twenty shillings, for every default. 43 *Eliz.*

For the Prisoners in the Gaol.

Fourteenthly, These Officers alone are to rate and levy the County Rate, made by the Justices, for the relief of the Prisoners in the Common Gaole, and to pay the same quarterly to the High-Constable of the same

Hundred,

Hundred, under pain of five pounds; and this money, if the Church-wardens doe pay before they doe Collect it, it ſhall be allowed them again upon their Accompt.

Fifteenthly, Where an Offender that is committed to Priſon, hath not Goods ſufficient to defray the charges of conducting him thither; The Conſtables and Church-wardens, and two or three of the Parſhioners, may make an indifferent Rate for the ſame. And any one of theſe Officers, by warrant from the Juſtice of Peace, that did commit the Offendor, may levy the ſame Rate on the Pariſhioners Goods. *To carry a Priſoner to Gaol.*

Sixteenthly, Theſe Officers are, upon a Warrant ſent to them, from any that have power, to levy the forfeitures for the breach of any of the Lawes, touching Drunkards and drunkenneſs; And they are then alſo to ſee that they doe imploy the ſame, to the uſe of the poor of the place. *Numb.* 13. *Againſt Drunkards.*

Seventeenthly, Theſe Officers are to joyn with the Conſtables, to execute warrants for the levying of the forfeitures, againſt them that deſtroy Fiſh, &c. *Againſt them that deſtroy Fiſh.*

Eighteenthly, They are alſo to joyn with the Conſtables in the chuſing of Supraviſors for the High-wayes; and in the ſetting down of dayes for the work; and in the overſight of the High-Conſtables Accompt, for the moneys they doe receive by any forfeiture. They may alſo with the help of two Juſtices of Peace, *Quorum Unus*, force High-Conſtables that have received any money forfeited for defaults of High-wayes, *To chooſe Surveyors for the High-wayes.* *Force High-Conſtables to accompt.*

wayes, to accompt for it; and pay in what is in their hands, to be imployed about the High-wayes.

About a Rogue. Nineteenthly, If a Rogue be brought and tendred to these Officers, they must receive him, or else they forfeit five pounds. *Stat.* 39. *Eliz.*

About Presentments. Twentiethly, 1. These Officers being required, must attend the Justices of Peace, and with the Over-seers of the Poor, give to the Justices an Accompt of what stock of money hath been raised by Rates, or is otherwise setled amongst them, and how they are imployed; and what Apprentices are placed, or fit to be placed; and of the rest of the things concerning their Office. 2. They must also present upon their Oathes, all Offences that are done within their Parish: against the Statutes made for the suppressing of Drunkenness, and other disorders of Alehouses. 3. They are to joyn with the Constable in presenting of Popish Recusants.

CHAP.

Chap. XII.

Of the Over-ſeers *of the Poor, and their Office.*

THe Overſeers of the Poor, are certain Officers appointed yearly to be joyned and aſſiſtant to the Church-wardens of the Pariſh, in the over-ſight and ordering of the Poor of the Pariſh. And they are to be choſen and made by two or more of the Juſtices of Peace of the County (whereof one of them muſt be of the *Quorum*) dwelling in or neer the Pariſh or Diviſion, &c. who are yearly, under their Hands and Seals, at Eaſter, or within a moneth after, to appoint four, three, or two ſubſtantial Houſholders (according to the greatneſs of the Pariſh) to be joyned with the Church-wardens of the Pariſh: And all theſe together, are to look to the Poor of the Pariſh, *Stat.* 43 *Eliz. chap.* 2. 3. 1 *Jac. chap.* 25. 3 *Car.* 1. *Numb.* 1. *What they are, and how they are choſen.*

Numb. 2. *Their Office and Duty.*

For the discovery of the Power and Duty of these Officers, these things are to be known. 1. Some things they are to doe in their Office; they are to doe it, and may doe it *Ex Officio*, without any Warrant from any other. And some things they may doe only by Warrant from others: And some of these things concern the Poor; And some of them doe concern other matters. As to the first of these, we are to know these things. 1. That in this Office, the Church-Wardens of the place have an equall Authority and Charge with the Overseers of the Poor; and therefore, howsoever it be the common course in most places, for the Church-wardens to neglect it altogether, and not to meddle at all with it; yet it is a common neglect punishable upon the Church-wardens, and fit to be redressed. But if there be but one Church-warden within the Parish, this doth suffice; and the Overseers of the Poor, and this Church-warden together, may execute the Office well enough. 2. The major part of them, without the rest, may doe any thing belonging to their Office. 3. They must have the consent of two Justices of the Peace (one of which must be of the *Quorum*) either in general or in particular, to every thing they doe in their Office: And yet, it seems, they may set up and use a Trade, by the consent of one Justice of Peace, where there are not two Justices within the limits; Nor is this consent otherwise necessary, then as herein is after set forth.

Numb. 3. 4. The Office of these Men lyeth in these things.

things. 1. In general: They are to take order with the consent of two Justices of Peace, one of the *Quorum*) to set their Poor awork, and if need be, for that purpose, to set up a Trade, place out their Apprentices, relieve the impotent, and such as cannot work, or cannot live by their work. But more particularly, 2. They, with the consent of two or more Justices, may set up and use any Trade, only for the setting awork and relief of the Poor of their own Parish, without breach of any Statute. 3. They are to set to work the Children of such, whose Parents shall not, by them, be thought able to keep and maintain their Children, and such persons, married and unmarried, as, having no means to maintain themselves, use no ordinary and dayly Trade of life to get their living by; all those that cannot get work elswhere: And if any person so appointed by them to work, shall refuse so to doe, or any others that are able, if they refuse to work for the wages assessed, he may be sent by any Justice of Peace to the common Gaole, or House of Correction; not to their place of birth or last dwelling. *In setting the Poor on work.*

2. The more part of them, with the consent of the Justices as aforesaid, may and ought to binde forth and place to be Apprentices the Children of such, whose Parents they judge unable to maintain their Children; But they may not binde any other mens Children so: And they unto whom they are so bound, may, and must recive them, and keep them as Apprentices: In which *Numb.* 4. *In binding Apprentices.*

which particular, these things are to be known. 1. Two Justices must be agreeing to what they doe herein. 2. So they doe binde them to Weavers, Masons, or any such like Trade; or they may binde them to Husbandry or Housewifery. 3. It is said they may binde any above seven, and under Thirteen years: And the Man-Childe may be bound until he be of the age of twenty four years, and the Woman-Childe untill she come to the age of one and twenty years, or be marryed. 4. These Officers may, with the Justice of Peace, help to compell any man within the Parish, that they think fit, to take such a poor Childe to be his Apprentice, and that without any money at all, howbeit in this case it is meet that some respect be had; for if the Childe be yong, and the party to whom they would place it be not very able, they may give him money if they will; and it is fit that some money be given, as the Overseers and the party can agree. And if they cannot agree, as the next Justices of Peace, or the Justices of Peace at the Sessions shall set down. *And this hath been the Resolution of the Judges.* 5. All men that have, or may have use for Servants, are bound to receive such Apprentices themselves, or contribute towards the placing of them with others. And albeit a man be not a Tradesman, but a Knight, Gentleman, Clergy-man, or Yeoman; and albeit he doe not keep House, but be a Sojourner, if he use Husbandry, Cloathing, Grasing, or the like: or howsoever his case be, if by his Calling and Profession, he must entertain and use Servants

vants of like quality; he may be compelled to take such an Apprentice. Resolved by the Judges. 6. If a wealthy man live so privately, that he keep few or no Servants, and leadeth such a life, that he hath no need of such a Servant; yet he may be compelled to take such an Apprentice himself, or to give money towards the placing him with some other. And this notwithstanding, they must bear their ordinary Rates to the Poor, as other men doe. *Rates.* Resolved by the Judges. 7. If there be not Masters enough within the same Parish, to entertain the poor Children there, the Justices of Peace may compell men of other Parishes within the same Hundred to take them: And if there be not enough within the Hundred, the Justices of the Peace, at their Sessions, may compell them of any other Parishes, within the County, to take them. Resolved by the Judges. 8. These Apprentices may be bound to a man, either in regard of his ability, or in regard of his Farm. And in the last case it seems reasonable that he goe with the Farm. 9. This binding must be *Indenture.* by Indenture, or it is not good. 10. The Indentures thus made by the Church-wardens and Overseers of the Poor, with the allowance of the Justices; and this binding by them, are as effectuall to all purposes, as if the Children were of full age and did binde themselves by Indentures. 11. All such as are so bound, according to 43 *Eliz.* may be safely received as Apprentices, 12 *Car.* 4. If any man refuse to accept of an Apprentice being thus placed to him, he is by the Justi-

ces

ces of Peace, to be bound to appear at the next Sessions or Gaole-delivery: And if he refuse so doe, he is to be sent to the Gaole, till he doe so. And if he be bound to appear at the Sessions, and doe appear, and then refuse (without a sufficient excuse to be allowed of the Justices of Peace) he is by them to be bound to the good behaviour; or if he refuse so to doe, to be imprisoned till he doe so; and he may also be Indicted and Fined for his contempt. Resolved by the Judges. 13. If a special Rate be set on any man to help place a poor Childe Apprentice, it may be levyed upon his Goods as other Rates are levyed. Resolved by the Judges. 14. If the Parents of such poor Children, refuse to let their Children go to be Apprentices, or intice them away, being bound; the Parents themselves may be sent to the house of Correction.

Numb. 5. In relieving the Poor. And what Poor they are to relieve.

3. The next main part of their Office is, to give relief to, provide houses for, and to help them that are poor, and not able to live by their work: For this we must know, that there are three sorts of Poor: 1. Such as are poor by impotency; as first, the aged decrepit persons, that are past labor; Secondly, the Infant Fatherless and Motherless, not able to work; Thirdly, the person naturally disabled in Wit or Member, as the Ideot, Lunatick, Blinde, Lame, &c. Fourthly, the person visited with sickness, who thereby, for the time is impotent. All these being impotent, and not able to Work, are to be found and provided for, by the Overseers, or necessary relief.

2. Such

2. Such as are ſo by Caſualty; as firſt, he that is caſually maimed in his Calling, as the Souldier, Laborer, &c. Secondly, the perſon that is decayed by Fire, Water, Robbery, Suretiſhip, &c. Thirdly, the poor man over-charged with Children. All theſe, and ſuch like, having no ſufficient means to maintain themſelves, are to be holpen and ſet on work by the Overſeers; and being not able to live by their work, are further in Charity to be relieved in ſome reaſonable proportion, according to their wants.

3. The thriftleſs Poor; as firſt, the riotous and prodigal perſon that ſpendeth at play, drinking, &c. Secondly, the diſſolute perſon, as Strumpet, pilferer, &c. Thirdly, the ſloathfull perſon, that doth refuſe to work, or doth wilfully ſpoyl or imbezle his work. Fourthly, the Vagabond that will abide in no ſervice or place. Fifthly, ſuch as will work but for the wages taxed or uſually given And for all theſe latter ſort, the Houſe of Correction or Common Gaole is the fitteſt place; and to the Houſe of Correction is he to be ſent, and not to his place of Birth, that will not work at the wages aſſeſſed or uſually given: but if they have able bodies, they are to be compelled to labor; for the Rule of Chriſt is, That ſuch as will not labor, muſt not eat, 2 *Theſ.* 3. 10 And yet if theſe prove unable to work, then it ſeems they muſt have reliefe from the Pariſh as well as others.

2. They are not to take care for houſes or other relief, for ſuch as are able to work, and

and have, or may have work, nor yet for their Children; for they are by their work to maintain them also: But if such be over-burthened with Children, it will be good for the Overseers to place some of their Children Apprentices: and if these cannot have work, the Overseers must procure them work; for none may beg in the High-wayes within or without their own Parish, nor at any mans dores without their Parish, by any license whatsoever, nor at any mans dore within the Parish, without order of the Overseers of the Poor. 3. Nor are they to take care of such as are able to live; and therefore if any such person travel through a Parish with Children, and the Father dye and leave them; in this case the Parish is not bound, but in Charity, to relieve them. 4. Nor for such as, having nothing to live by, have able bodies, may have work and will not work: They are not to take care to relieve Rogues, for they are to be sent away.

Numb. 6. In settling of Poor, and where they shall be settled.

6. They must take care for such Poor as have Parents or Grand-Parents, Children or Grand-Children, able to relieve them as well as others, till they can be forced to help them. For the Justices of the Peace, at their general Sessions, may rate the Father or Grand-father, Mother or Grand-mother, Children or Grand-Children, being able to help relieve any poor People, and force them to pay it, if they live within the County. And yet if a Woman, having a Bastard take a Husband, it seems he is not bound to keep the Bastard, unless he have an Estate by her.

her. And if the place be not able to relieve their Poor, two Juſtices, *Quorum unus*, may charge any other place within the Hundred to help: And if the Hundred be not able, the Quarter-Seſſions may charge the whole County.

7. They muſt take care for all ſuch as are lawfully ſent to, and ſettled amongſt them, if they prove impotent. But by the way, as to the point of ſettling theſe Rules and Caſes following, are to be known.

1. He that is a Native, Houſholder, Sojorner, Apprentice, or Servant, within a Pariſh, and doth live there in Peace but three weeks or a moneth together, is ſaid to be ſettled there: But he that paſſeth through a Town only, or is in another Mans Houſe, as an Inmate two or three dayes together; or lyeth in an out-Houſe or Barn, for a longer time, having no houſe to dwell in; or a Childe at Nurſe there; or a Scholar at School there; or in the place being an Univerſity; or as a Traveller in an Inne there, is not ſaid to be ſetled there by this. And therefore if any impotency happen to any ſuch, the place ſhall not be charged, but they ſhall be ſent to the place where they or their Parents are ſetled, or where the Children were ſetled. Reſolved of the Judges.

2. If a perſon be once duly ſettled in a Pariſh, he may not be after removed, but there he muſt be relieved, or ſet awork, as his caſe is; for no man is to be put out of the Town where he dwelleth, nor to be ſent to his place of Birth or laſt habitation, but a vagarant

vagarant Rogue; And therefore they that have Houſes or Services in Pariſhes, when their Eſtates or Services are ended, are to get new Houſes or Services, and work if they be able: for in this caſe the Pariſh is not to provide for them: But if they be impotent, they muſt be there relieved, for they may not (in theſe caſes) be ſent to their places of birth, or laſt dwelling. And yet it is ſaid in theſe caſes, if any of theſe perſons ſhall be taken begging abroad out of the ſame Pariſh, that in this caſe ſuch perſon may be ſent from the place where they are taken begging, as a Vagabond to the place of his birth. Reſolved of the Judges. But if he goe of his own accord into that Pariſh, and doe not beg there, they cannot ſend him back; for none but a Rogue can be ſent back to any place from whence he came. *Paſch. 7. Car. B. R. per Ch. Juſt.* And thoſe yong Children whoſe Parents are dead, are to be ſet a work, relieved or maintained at the charge of the place where they are dwelling at the time of the death of their Parents, and are not to be ſent to their place of Birth, &c. For if the Parents be not Rogues, the Children cannot be Rogues till they wander and beg.

3. For further opening this matter, take theſe Rules. Firſt, the Law unſettleth none who are lawfully ſettled. Secondly, none may be ſettled by practiſe. Thirdly, none can be ſaid to be ſettled in that place where he is in no quiet, but continually interrupted by complaints to Juſtices of Peace, their

Warrants

warrants or other disturbances of the Parishioners, or Over-seers of the Poor. Fourthly, no settlement can be made by composition and agreement. Fifthly, no settlement can be made by an illegal remove. Sixthly, nor can any settlement be by any mans being in a Parish obscurely, and in a skulking way, that the Parish cannot take notice of him.

4. For the opening and illustrating of these Rules, take these Examples and Cases. 1. If a Rogue be taken at *A.* and he will not confess, nor can they finde the place of his Birth, but he saith that his last habitation was at *B.* whereupon he is whipped sent to *B.* and there he confesseth the place of his Birth to be at *C.* In this case, without any new vagarancy, they of *B.* may send him to *C.* Resolved of the Judges. Secondly, If one that hath a Family, take a house in a Parish for one year, and before the end of the year, he is forced out of the possession of it, and then goeth into another Parish and take part of a house, and is there as an Inmate but one, two, or three dayes, he is put out from thence; and then for want of a house lieth in a Barn in a third Parish, and there the Husband is sick, and Wife delivered of a Child: Now in this case they shall be sent to, and settled in the first Parish, where his house is, and from whence he was lawfully removed; for none may be so forced to turn Vagarants. Resolved of the Judges. Thirdly, a Souldier maimed in the late Wars before *May*, one

thousand six hundred fourty seven, must be settled in the place where he was settled when he took up Arms. *Ord. May* one thousand six hundred fourty seven. Fourthly, If an Apprentice or a Servant goe out of that condition, he cannot be thrust out of the place, but must continue there, and be disposed of as his case requires. And if the Master of an Apprentice die before, or within the time, his Executors or Administrators must provide for him (if they be able) otherwise; and however if the Apprentice become impotent, the Parish must doe it; and so it is if he be placed by the Churchwardens. Resolved of the Judges. And if a Servant be got with Child, and then goeth out of her Masters Service, before or after it appear she is with Childe, and the reputed Father is run away, or poor; in this case, not the Master, but the Parish shall be charged. Resolved of the Judges. Fifthly, The Wife regularly is to goe with the Husband, albeit he be a Servant. Resolved of the Judges. And if a Husband and Wife be Roguing, and they have a house in another Parish, though as an Inmate, they may be sent thither. Resolved of the Judges. And generall Children Seven years old, and vagarants, must be sent to and settled with the Father or Mother, or Mothers Husband; and if he be dead, the Mother where she was born or last dwelt the space of a year. And being thus settled, they must there remain, and not be sent away from thence to their place of birth; though after their Parents

rents die or run away, or the Children be above Seven years old, or doe turn vagarant in that Town; for they muſt be there ſet on work. Reſolved of the Judges. If a woman have a Baſtard, and then take a Huſband; it is ſaid he is not bound to maintain this Childe, unleſs he have a ſufficient Eſtate by his Wife to doe it, 10. *Car.* So held by the Seſſions in the County of *Wilts.* And if a Rogue, whoſe laſt place, or place of birth cannot be known, have a Wife, and Children under ſeven years old, they muſt goe with the Husband to the place, through which they were laſt wilfully ſuffered to paſs without puniſhment, where the Children are to be maintained by their Fathers work; though they be ſent to the Houſe of Correction. *Dalt. J. P.* 14. If one hire a Houſe in *A.* or have no Houſe in *A.* and live there with his Wife and Children, and binde himſelf to ſerve one in *B.* In this caſe, the Wife and Children muſt remain in *A.* But if he hire a Houſe in *B.* then they muſt be all in *B.* And Children, whoſe Parents are dead, are not to be ſent to their place of birth, &c. If they be like to be a charge; for the Parents not being Rogues, the Children cannot be Rogues, unleſs they wander or beg: in this caſe therefore they muſt be maintained at the charge of the Pariſh where the Father dyed. But if a travelling woman that hath a Childe ſucking on her, be ſent to Gaol and then hanged for Fellony, the Child ſhall not be charged on the Pariſh where ſhe is hanged; but it ſhall be ſent to, and ſettled

in the place where she was born, if it can be found, otherwise to the place where she was taken.

The Bastard Childe, the Mother, or reputed Father, being not able to maintain it, must be with the Mother so long as it is in the condition of a nursing Child; and then it must be sent to the place of its birth: And if one be delivered of a Bastard Childe in one Parish, and after the Mother goe into another Parish with it, or become vagarant, so that she is sent to the place of her birth; the Childe being under seven years of age, is to be sent to the place of his birth, and not settled with the Mother. Resolved of the Judges.

If a Woman settled in a Service, hap to be with Childe, which is like to be a charge, the reputed Father being gone or poor, the Parish where she is must be charged; but if she be in another Parish and settled, there she must continue. Resolved of the Judges. And therefore if a Woman unmarried be hired Weekly, Half-yearly, or Yearly, in one Parish, and there is begotten with Childe; and then goeth into another Parish, where she is settled in service or otherwise, two or three moneths; and then she appear to be with Childe, and it is like to be charge to the Parish, the reputed Father being gone or poor; in this case she is to be settled in the Parish where she is not, where she was begot with Childe. Resolved of the Judges. And if such a Servant be got with Childe, and then goe, or be legally put out of her

Masters

Masters service, the Parish, not the Master, must be charged with it. Resolved of the Judges. So if a Servant be with Child when she is retained, and for this she is afterwards by a Justice of Peace discharged of the service within the time, or she be with Childe and her time be expired, and she not able; the Parish, not the Master, shall be charged herewith. Resolved of the Judges.

4. The Justices of the Peace in their Quarter Sessions, if any question be about these things, doe settle it according to these Rules.

5. Such as doe remove any contrary to these Rules, may be fined; and if any be sent to any place against these Rules, they are to be sent back again to the place from whence they came. *Stat.* 43 *Eliz.*

These Officers must provide houses as well as victuals for their Poor, and therefore they may by order of the Quarter Sessions, and leave of the Lord of the Mannor, first had in writing under his Hand and Seal, build any house for the impotent Poor of the Parish in any waste part of the Mannor, and they may place more Families than one therein, as Inmates, without any danger: but then this house must not be afterwards converted into any other use; for so it may become a Cottage afterwards.

They are to doe their work by and with the money raised by the Rates; also with the money that comes to them by the forfeitures of Delinquents upon the Statutes against Alehouse-keepers and Tiplers, sale of *Numb.* 6.

Tenters default of Clothiers, the Flesh in Lent in a Victualling house, for taking Partridges, profaning the Sabbath or Gods name; and such as offend against the Statute made for the Poor, and against Rogues.

Numb. 7. In making of Rates.

The next main thing wherein the duty of these Officers doth lie, is in making of Rates. For to this purpose, it is provided, that the Church-wardens and Over-seers of the poor, or the greater part of them, with the assent of two Justices of the Peace, may raise weekly or otherwise (by Taxation of every Inhabitant, Parson, Vicar, and other, and of every Occupier of Lands, Houses, Tythes impropriate, or propriation of Tythes, Coal-mines, or saleable Underwoods in the said Parish, in such competent sum and sums of money as they shall think fit) a convenient stock of Flax, Hemp, Wool, Thread, Iron, and other necessary Stuff to set the poor on work: and also competent sums of money, for and towards the necessary relief of the Lame, Impotent, Old, Blind, and such other among them being poor and not able to work: And also for the putting out of the Children of poor persons to be Apprentices: And also for the setting up of houses for the Poor, to be gathered out of the same Parish, according to the ability of the same Parish, and they may doe and execute all other things, as well for the disposing of the said Stock, or otherwise concerning the premises as to them shall seem convenient. For the better understanding of which branch of the Statute of 43. *Eliz.* and

discovery

discovery of the Law, concerning Rates in general, these things must be known.

1. That when Officers are to make any Rates, they shall doe well the first of all to give publique notice in the Church, of the time and place when and where they intend to make the same (for this in the case of Church Rates is necessary;) and then if the Parishioners will meet they may, if not, the Officers and those that doe meet, may make the Rate.

2. The Rates must not be extended beyond the Parish, neither may the Overseers Rate other Parishes towards the Rates of the Poor of their Parish. For in *Hill.* Term. 10. *Car. inter Nichols* and *Walker*, was this case in the *Kings Bench. Totrige* was time out of minde, within the Parish and parcel of the Parish of *Hatfield*, in the County of *Hertford*; and the Parson of *Hatfield*, had time out of minde, had all the Tithes out of *Totridge*, as within the parish of *Hatfield*, and had alwayes placed Curates there to say Divine service in the Chappel of *Totridge*; and that for sixty years before *Totridge* was reputed a parish of it self, and during that time, had parochiall Officers; and that of late the Over-seers of the poor for the Parish of *Hatfield*, had taxed the Plaintiff *Nichols* (being an Inhabitant of *Totridge*) to pay to the poor of *Hatfield*, which tax was confirmed by the Justice; and the money being unpaid, the Defendant *Walker*, being an Over-seer by Warrant from the Justices of Peace, distrained the Plaintiffs Goods; and for this taking of his Goods *Nichols* brought an Action against *Walker*; and

in this case it was adjudged for the Plantiff; and Resolved by the Judges, that *Totridge* being but a Parish in reputation only, should not be liable to the Taxation made by the Over-seers of the Poor of *Hatfield*. 3. Every man must be rated for his Land to all Rates according to the quality and yearly value, and not according to the quantity thereof. And so was the opinion of the Lord Chief Justice, and Baron *Denham*, at an Assises at *Sarum*. 8. *Car.* 4. He that doth occupy Land in his own hands, lying in severall Parishes, must be charged in every Parish for his Land there, only proportionably and no more. 5. The Farmer is to be rated for the Lands he hath in Lease, not the Lessor. 6. The Lord or Lessor shall not be charged for the Rent issuing out of the Land, because the Tenant is chargeable for the whole Land. 7. If there be some other Lands within the Parish that be ancient Demein, and some that be Guildable, it seems they must be all rated, and so also of Copyhold Lands. 8. Impropriations (by the very Letter of the Statute) are to be rated to the Poor as well as other Lands. And in the rating of them, it seems reasonable, that where they have the Tenth of the whole Parish, they bear the Tenth of the charge of the Rate to the Poor. And so hath it been of late Resolved by the Judges. 9. Saleable Underwoods (by the expres Letter of the Statute are rateable, and by these are intended generally, all Woods for Fire-wood, albeit they be not cut in thirty or fourty

years

years (as the Beech-wood of many Countries is uſed to be cut) for it ſeems there is no wood to be exempted from this Rate but Timber-wood onely: Alſo Coal-mines are chargeable to this Rate, and for theſe things they muſt be proportioned to a yearly benefit. So that if a man have a hundred Acres of wood within the Pariſh, it muſt be conſidered what wood he may ſell, and what benefit he may make thereof yearly, to the Worlds end; and according to the ſame the Rate muſt be made: And for Coal-mines it muſt be conſidered what benefit a man doth make by them, and according to the ſame, he muſt be rated. 10. Parſons, Vicars, and ſuch like perſons (as Inhabitans) within the intent of this Statute, are to be rated towards the relief of the Poor as well as other men; and ſo hath it been Reſolved of late by the Judges. 11. Any man that dwelleth within the Pariſh, albeit he have no Land within the Pariſh, may be rated towards the relief of the Poor of the Pariſh. And ſo hath it been alſo Reſolved by the Judges. 12. In ſome caſes a man may be taxed for his Goods, as well as for his Lands; and in caſe of a Rate for the Poor, men may be taxed for their viſible Eſtate of goods, *viz.* their Oxen, Kine, Sheep, &c. as well as for their Lands and not only for thoſe goods that are within the ſame Pariſh, where a man doth dwell, but alſo for thoſe goods which he hath in any other place: for a man ſhall not be rated for his goods in any place, but in

in the place where he doth dwell. Nay it is held in this case of Rating for the poor, some respect may be had to mens invisible Estate of money; for the case may be so, that the Raters may know a man within the parish that hath no other Estate, and yet perhaps hath an annuity of one hundred pounds by the year, or hath hundreds of thousands of pounds of money owing to him; and in such a clear and certain case, they may no doubt Rate him according to that value. 13. In some special case a man may be Rated beyond his ability: for if a Parishioner for his own gain, or otherwise, shall bring into the parish, without the consent thereof, a Stranger who is, or is apparently like to be burthensom to the parish, in this case the Parishioners (because they have no other remedy against him) may Rate him, not only according to his ability of Lands and Goods, but according to the Damage he bringeth, or is like to bring to the Parish by his folly: For if any person shall finde himself grieved with any such Rate to the Poor, or other such like act done by the Overseers of the Poor, or the Justices of the Peace, he hath no other remedy but to complain to the Justices of the Peace at the Quarter Sessions, where (the case appearing to be as aforesaid) he shall have a little relief. 14. If any man refuse to pay his Rates for the poor, the present or subsequent Overseers of the Poor shall have a Warrant from the Justices of the Peace to levy the same of the parties Goods; And thereupon they may and must sell the parties Goods, and pay themselves

ſelves their Rate, and give the party the over-plus of the money if there be any; and if he have no Goods, then to carry him to Gaol, there to abide until he doe pay it. It ſeems to me, that for relief of the poor that they have not places for, in caſe of neceſſity, that they may Rate the pariſh to build a houſe, and to buy a peece of ground in ſome of the Pariſhioners names to ſet it upon: For it is in their diſcretion which way to provide. And if they over-rate any man to theſe ends, they cannot be ſued by the party grieved: But if there be any conſpiracie in the caſe, to oppreſs a man, or he be rated to pay debts, or for Alimonie, or for any other purpoſe by theſe Officers, an Action will lye againſt them.

Theſe Officers, with the Church-wardens, the Parſon or Vicar, and the Conſtables of the place, or the moſt part of them (where any money is or ſhall be given, to be continually imployed for the binding out, as Apprentices, the pooreſt ſorts of Children) ſhall within the ſame places, have the nomination and placing of ſuch Apprentices, and the guiding and imployment of ſuch monies as have been heretofore ſo given, or which hereafter ſhall be ſo given to and for the continual binding forth of ſuch and ſo many Apprentices, and in ſuch ſort as is already or ſhall hereafter be ſo given and appointed, either by the laſt Will or any Writing under the Hand and Seal of the givers of ſuch monies. And if any of them wilfully forbear or refuſe, according to their duties, to imploy ſuch monies, by means whereof, the ſaid monie ſhall not be imploy-

ed

ed accordingly, then every of them ſo offending, ſhall forfeit three pounds for every ſuch offence. And the Maſter, Miſtreſs or Dame of ſuch Apprentices ſhall be bound with one or two ſufficient Sureties, in double the ſum they have received with ſuch Apprentices, to ſuch perſons as aforeſaid, appointed to diſpoſe the ſame monies, to repay the money ſo received at ſeven years end, or within three moneths next after the ſame ſeven years ended. And if the Apprentice, Maſter, &c. happen to die within the ſaid ſeven years, then within one year next after ſuch death. And theſe Officers and the reſt ought to put forth and employ ſuch monies within three moneths at the furtheſt, after the ſame ſhall come to their hands. And if there ſhall not be found fit perſons to be bound out Apprentices in the Towns and Pariſhes where ſuch monies are or ſhall be given, to be employed as aforeſaid, the pooreſt Children of any of the Pariſhes next adjoyning may (by the diſcretion of the ſaid Parſon, Vicar, &c.) be bound Apprentices, taking ſuch Bonds as are before mentioned. And choiſe muſt be alwaies made of the pooreſt ſort of Children; and that no Apprentice be above fifteen years old when he ſhall be firſt bound. And the ſaid Parſon, Vicar, &c. are once every year in Eaſter week, or within a moneth after Eaſter day, to be accomptable before four, three, or two Juſtices of the Peace, dwelling in or next the ſaid Towns or Pariſhes, for all ſuch monies as they have

have employed in binding of Apprentices; and of all Bonds and Obligations taken for payment thereof, and of the monie remaining in their hands, and are at such accompt or within ten dayes after, to deliver to their Successors, or to such as have been in their times or places, all the said Bonds and Obligations, and such monies as remain in their hands not then employed.

They must, being required by the Justices of Peace, attend them, and with the Church-wardens, give them an accompt of these things; what Stocks of monie are in their Parish by Rates or otherwise; what Apprentices they have placed; and what they have done in all the rest of their Office. *Numb.* 8. *In making Presentment.*

These Officers and the Church-wardens, are to meet monethly in the Church, on Sunday after Evening Prayer (except they be let by Sickness or other cause, to be allowed a good excuse by two Justices of the Peace) to consider of all these things.

They are alwayes, within four dayes after the end of their year, and after other Over-seers named and allowed by the Justices, to give up to any two such Justices of the Peace as aforesaid, a true and perfect accompt. 1. Of all sums of money by them received or rated, and not received. 2. Of all such stock of Ware or Stuff as they or any of their poor have in their hands. 3. What Apprentices they have put out. 4. What poor they have set on work, or relieved. 5. Whether they have suffered any of their poor to wander and beg out of their Town, or in the High-

wayes,

wayes, or in their Town without their direction. 6. Whether they have not monethly met to consider of these things. 7. Whether they have Assessed the Inhabitants and Occupiers of Lands, &c. in their parish, *viz.* all such as are of ability, and with indifferency. 8. Whether they have indeavored to levy and gather such Assessments. 9. Whether they have been any way negligent in their Offices, in executing the Justices Warrants about any thing touching their Office.

And if any Church-warden or Overseer shall refuse to give up his accompt as aforesaid, and to pay over the Arrearages due (if any be) upon the same accompt, unto his Successor, he may be committed to the Gaole by two Justices of the Peace, untill he doe accompt and pay over the same monie. And if any of these Officers shall offend in any other of the particulars aforesaid, he shall forfeit for every default twentie shillings.

All these forfeitures are to goe to the use of the poor of the parish, and may be levyed as followeth, *viz.* The monie forfeited by the Father, Grand-father, &c. of any poor person taxed by the Justices, towards the maintenance of such poor person that will not pay that Rate, may be levyed of the offenders Goods upon a Warrant from two or more Justices of Peace as aforesaid, by sale of the same Goods, rendering to the party the over-plus of the monie. And if there be no distress to be had, the Justices of Peace may commit the offender to prison, there to remain without Bayl,

Bayl, until the forfeiture be paid: The monie forfeited by the Church-wardens or Over-ſeers, for not receiving or taking care to convey a Rogue, &c. may be levyed upon the offenders Goods, upon a Warrant from two or more Juſtices of the Peace: The monie forfeited by the Church-wardens and Over-ſeers for offending in any of the particulars aforeſaid, may be levyed by the ſubſequent Church-wardens and Overſeers upon the offenders Goods: Alſo in the ſame manner by a Warrant from any two Juſtices of the Peace: And if there be no ſuch diſtreſs to be found, the ſame Juſtices may commit the ſame offenders to Gaole, until they doe pay it. And if any man ſhall in any wiſe diſturb the Execution of the Statute of 39 *Eliz.* 4. he ſhall forfeit five pounds, and be bound to the Good-Behaviour by any two Juſtices of the Peace.

We have done with the Office of theſe Officers, ſo far as it concerns the poor; now we come to that wherein their Office lieth about other matters; the which is given them alſo by certain Acts of Parliament, and lyeth in theſe particulars following.

For the better underſtanding of the Law herein, theſe things are to be known. *Numb.* 9. *Againſt ſuch as prophane the Lords Day.*

1. This day is by every one to be ſanctified and kept holy, and men muſt be carefull herein to exerciſe themſelves in the duties of Piety and true Religion, publiquely and privately:

vately: and every one on this day (not having a reasonable excuse) must diligently resort to some publique place, where the Service of God is exercised, or must be present at some other place in the practise of some Religious duty, either Prayer, Preaching, Reading, or expounding the Scriptures, or conferring upon the same. 2. None may on this day meet out of their own Parish at any Sports whatsoever; nor may they meet within their own Parish for Bear-baiting, Bull-baiting, Enterludes, or other unlawfull exercises, under pain to forfeit three shillings four pence for every offence, to be levyed by distress and sale of Goods; and for lack of distress to sit three hours in the Stocks. Nor may any one on this day keep, or be present at any Wrastlings, Shootings, Bowlings, ringing of Bells for pleasure, Masque, Wake, Church-ales, Drinking-games, Sport or Pastime whatsoever, under pain to forfeit five shillings if he be above fourteen years old, and twelve pence by him that hath the Government of him if he be under fourteen year old, to be levyed by distress and sale of Goods, or if no distress be to be had, to sit in the Stocks three hours.

Carriers. 3. No Carrier may goe with his Horses, Wagoner, Carter, or Wain-man, may goe with his Cart, Wagon, or Wain; or Drover with his Cattel on this day, under pain to forfeit twenty shillings for every offence, to be levyed by distress and sale of Goods, if he be questioned within six weeks after the offence done. But there shall be but one twenty shillings forfeited for one journey, although he pass through

through twenty Parishes; and this twenty shillings that Parish shall have where the distress is first taken. 4. No Butcher may kill or sell any victuals on this day, under pain to forfeit six shillings eight pence, if it be questioned within six weeks after the offence done, to be levied by distress and sale of goods. *Butcher.* 5. None may Cry, shew forth, or put to sale any Wares, Merchandises, Fruit, Herbs, Goods, or Cattell on this day, unless it be an Inn or Victualling-house; and for such as cannot otherwise be provided for, and unless it be the crying and selling of Milk before nine in the Morning, and after four in the Afternoon, from the tenth of *September* to the tenth of *March*; and for the rest of the year, before eight in the Morning and after five in the Afternoon, under pain to forfeit the thing so cryed or offered to sale. *Tradesmen.* 6. None may on this day without good cause, by allowance of one Justice of Peace, travell, under pain to forfeit ten shillings, nor carry any burthen, or doe any worldly labor, under pain to forfeit five shillings: Both these forfeitures to be levied by distress and sale of goods; and if no distress be to be had, to sit in the Stocks three hours. *Traveller.* 7. None may on this day or the dayes of Humiliation, or Thanksgiving, use Dancing, profanely Drinking, or Tippling in any Tavern, Inn, Ale-house or Tobacco-house, nor be there, or grinde any Corn at a Mill but upon cause, to be allowed by one Justice of Peace, under pain to forfeit ten shillings a peece; he that is in the *Drinking. Tippling.*

Inn, and he that keeps the Inn; the Millard, and he that owes the Corn, to be levied by distress and sale of Goods, and for lack of distress, to be set six houres in the Cage or Stocks. 8. No Traveller, Waggoner, Butcher, Higler, Drover, or their Servants, shall come into their Inn, or lodge on Saturday night after twelve a clock, nor goe from thence Monday morning before one of the clock, without necessary cause, to be allowed by one Justice of the Peace, under pain of forfeiture of ten shillings by the Traveller, and to be levied by distress and sale of Goods, and for lack of distress to be set six hours in the Stocks or Cage. 9. None may execute any Writ, Order or Warrant on this day, dayes of Humiliation, or Thanksgiving (but in case of Treason, Fellony, breach of the Peace, any profaning of the day) under pain to forfeit five pounds, to be levyed by distress and sale of Goods, and for want of distress to sit six hours in the Cage or Stock.; and the serving of the Proces is void. 10. None (but in case allowed by one Justice, or for Gods service) may travel with any Boat, Wherry, Lyter, Barge, Horse, Coach, or Sedan on this day, under pain of forfeiture of ten shillings by him that is carried, and five shillings by him that doth carry, to be levied by distress and sale of Goods, and for lack of distress to sit six hours in the Cage or Stocks.

Serving of Proces.

Coaches, Boats.

Any one of these Officers, upon their own sight or knowledge of any Offence done, by selling, crying, or offering of Wares to sel

on

on the Lords day, as before, may seize and secure the Wares and Goods, till Justice may be done against the Offender therein. Also any of these Officers may search for the discovery, finding out, apprehending and punishing of all the Offenders, against any of the Lawes aforesaid. And all that this Officer is to doe, as it seems by this Law, is only to search; and if he finde any thing, to inform the Justice of Peace thereof: for it seems to me he cannot doe more without a Warrant from a Justice of Peace. *Act.* 9. *April*, one thousand six hundred and fifty.

Every one that sweareth, is to forfeit for the first Offence as followeth. The Lord, and all above him in degree, thirty shillings. The Baronet or Knight, twenty shillings. The Esquire ten shillings. The Gentleman six shillings eight pence. Any other man or woman, single or married, three shillings four pence, and for every offence afterwards twice as much: And for the tenth offence, being proved by verdict or confession, he is to be bound with Sureties to the Good-Behavior for three years: and for lack of payment, or giving security to pay it, and distress to levy it, if he be above twelve yeers old, he is to sit by the Heels in the Stocks three hours for the first offence, and six hours for every offence after; if under Twelve years, he is to be whipped by the Constable, or Master, or Father in his presence: three swearings after the Surety, for the Good-behavior given, is a breach of the Bond. *Numb.* 10. *Against Swearers.*

Any one of these Officers may without Warrant apprehended, or cause to be apprehended, and carry or cause to be carried to a Justice of Peace, to the end he may be there punished, any one that doth swear or curse against the Law. *Act.* 28. *June*, one thousand six hundred and fifty.

About superstitious Monuments.

Any one of these Officers may also take down superstitious Monuments and Pictures upon the Ordinance of *May*, one thousand six hundred fourty and four.

About Rogues.

If a Rogue be tendred and brought to any one of the said Officers, to be conveyed to any place, he is to receive him and look to him, as well as the Constable, or he may forfeit the five pound penalty appointed, by the Statute of 29 *Eliz.*

CHAP.

Chap. XIII.

Of the Supravisors *of the High-wayes, and their Office.*

He Supravisors or Surveyors of the High wayes, are Officers yearly chosen by the Constables & Church-wardens of the Parish, to look to the amendment of the High-wayes within the Parish. For the Constables and Church-wardens of every Parish, must yeerly upon the Tuesday or Wednesday in the *Easter* week, call together some of the Parishioners, and then choose two honest persons of the Parish, to be Orderers and Overseers of the works, for the amendment of the High-wayes of the Parish leading to Market Towns. But now by the new Ordinance, the choise is to be made the first Tuesday after the twenty fifth of *March* yearly. And the safe way is to choose them the first, and to choose them or approve them the second day again. The which persons so chosen, shall have power to

Numb. 1. *What they are, and how they are chosen.*

order the persons and carriages appointed for the work, according to their discretion: And if either of the said persons so chosen and appointed, shall refuse to take on him and execute the said Office, he shall forfeit twenty shillings for this refusall. *Stat.* 2 & 3 *Phil. & Ma. c.* 8. 18. *Eliz.* 9. 5 & 13. 29. & 5.

Numb 2. *Their Office and Duty.*

For the discovery of the duty of these Officers, and the Law in this point; these things are to be known.

1. That they have to doe with no wayes, but the publick High-wayes. And so hath it been resolved by the Judges in the Upper Bench: For the Statute is High wayes leading to Market Towns.

2. The Constables and the Church wardens of the Parish are at the time of choosing of these Officers, to name and appoint six dayes, to be before the Nativity of Saint *John* the Baptist, then next following, set apart for the amending of the High wayes; and they are to give notice thereof the next Sunday after in publick in the Church; And this being done, these Officers, *viz.* The Surveyors of the High-wayes are to see that the same be observed, and that all the Parishioners doe their work on the same dayes in manner as followeth.

3. Every person having a Plough, Land in Tillage, or in Pasture, in the same Parish, or keeping there a Plough or a Draught, shall finde and send on every day to the place appointed, one Wain or Cart, provided after the fashion of the Country, with Oxen, &c. fit for the carriage, and with necessary

Tools

Tools fit for the work, and with two able men; and then and there these men must doe such work with their Plough, &c. as they shall be appointed to doe by the Surveyors aforesaid, by the space of eight hours on every of the said dayes, under pain to forfeit for every default ten shillings. And every other Housholder, Cottager, and Laborer of the Parish (able to labor, and being no hired Servant by the year) must by himself, or some other able man, be then and there ready to work, and work every one of the said six dayes by the space of eight hours, as they shall be appointed by the said Surveyors, under pain to forfeit twelve pence for every day they shall make default herein. In the Explication of which Branch, these things are to be known.

First, That a Plough land is not of any certain content, but ordinarily so much as one Plough may plough in one year; which in some Countries is more, in some less, according to the heavinesse of the soyl. *Cook.* 4. 37. & 9. 124.

Secondly, That so many Ploughs as men usually have, and use in the Summer about their own business, so many they are to bring with them to this work: So that (for example) if a man with one Plough, and five or six horses, shall plough seven or eight-score Acres of Errable Land, and shall usually go in the Summer with two Carts or Draughts; in this case, it seems he is to come with two Carts or Draughts to this

ſervice. And he that occupieth fourty or fifty Acres of Land, and keepeth only three Horſes, and one Draught or Cart, he is to come with one Draught or Cart.

Thirdly, If a man keep only two Horſes and a Cart for his own buſineſs; In this caſe it ſeems, he is to come with his Cart and two Horſes, provided with a man or men to manage them.

Fourthly, He that hath a Plough-Land, and hath no Plough, but doth ſuffer his Land to lye freſh, yet is to finde and ſend a Plough to this work: And ſo it was agreed by the Judges in the Upper-Bench. *Mich.* 21 *Jac.*

Fifthly, A Plough-Land may contain Houſe, Meadow, Paſture, and Wood; and therefore, if one have ſo much of this, as will keep a Plough, and yield Tillage for it, if part of it were Eared up: In this caſe, it ſeems, he is bound to ſend his Plough, or elſe to pay for the ſame the penalty appointed by the Statute, for his neglect.

Sixthly, He that keepeth a Plough or Draught for carriage albeit he occupieth little or no Land or Paſture, in his own hands; yet ſuch one, it ſeems, is bound by the Statute to ſend his Plough to this ſervice.

Seventhly, He that doth occupie a Plough Land lying in Tillage or Paſture, in ſeveral Pariſhes, ſhall be chargeable to the amending of the High-wayes in the Pariſh where he dwelleth, as far as any perſon having a Plough-Land in any one Pariſh is chargeable.

Eightly,

Eighthly, Every perſon keeping in his hands and poſſeſſion, ſeveral or divers Plough-Lands, ſhall be charged to finde in each Town or Pariſh where the Plough-Lands (being in his occupation) doe lye, one Cart, &c. furniſhed for the reparation of the High-wayes in the ſeveral Pariſhes where his Land doth lye, as if he were a Pariſhioner dwelling in the Pariſh where the Plough-Land doth lye.

Ninthly, If a man be chargeable but as a Cottager, yet if he be in the Subſidy five pounds in Goods, or fourty ſhillings in Lands; ſo long as he ſtands at that Rate, he is to ſend two able men to the work every one of the ſix dayes.

4. If the Surveyors ſhall think any of the Ploughs or Carts to be needleſs any of the dayes, they may ſpare them, and inſtead thereof require two able men; the which muſt come under pain to forfeit twelve pence a man for every default.

5. Theſe Officers muſt ſee that the work be done according to the direction of the Statutes; and every man is to ſee that he doth his part therein. But if the Surveyors themſelves ſhall licence any man to doe leſs then his work, this will excuſe him.

6. The Owners of the grounds adjoyning to the High-wayes, are to take care that all the Fences, Hedges, and Ditches, next adjoyning on either ſide of the ſame, be from time to time Dicked, Scoured, Repaired and kept low; and that all the Trees and Buſhes therein be cut down, under pain to

loſe

lose for every default ten shillings. And if any man hath any Ditch in his own Ground that doth serve to lead away the water out of the High-way, and he doth not scour and keep the same clean, so as to convey away the water; he shall forfeit for every Rood not so scoured 12 d. And if any man that hath a Ditch lying by the High-wayes side, doth cast the same up into the High-way, and then suffer the same to lie there by the space of six moneths, to the annoyance of the High-way, he shall forfeit for every Load so cast up, twelve pence.

7. These Officers may, if they see cause for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken Stones already digged of any mans Quarry lying within the same Parish, without leave of the owner, as they shall think needfull: But they may not without Licence dig in any mans Quarry for new Stones, much less take away any mans Stones already digged. And if there be no such Rubbish to be found in any mans Quarry, within the said Parish, then may they enter into any mans several ground (within the Parish) lying neer the place where the wayes are decayed, and there, if they see hope of finding Materials fit for reparation thereof, may dig a new Quarry without any leave of the owner of the Grounds; or they may enter upon any mans Ground, and gather the Stones that lye dispersed there: But they may not without leave dig for any new Quarry in the House, Garden, Orchard, or Meadow of any man; nor (albeit it be in other

ther Ground) dig more then one pit, and the ame in bredth or length not above ten ards over at the moſt; and then alſo they muſt take care that the ſame be within one moneth after filled up again at the charge of the Pariſh, under pain to forfeit five Marks to the owner of the Ground. And if here be any Spring or Water in the High-way that doth annoy the High-way, they may turn the ſame out of the High-way into any mans Ditches, according to their diſcretion.

8. They muſt within one moneth after any default is made in any of the particulars aforeſaid, preſent the ſame to the next Juſtice of Peace, under pain to forfeit fourty ſhillings for every neglect. And this Preſentment that Juſtice of Peace muſt preſent to the next Quarter Seſſions, under pain of five pounds.

9. If any man offend againſt the Statute of 2 & 3 *Phil. & Mary*, (i.) *If the Conſtables and Church-wardens ſhall not make a due election of theſe Officers, and ſet down and give notice of the times and dayes for the work; or if the Surveyors doe not look to, and order the work; or the Pariſhioners doe not wait upon the Work, as aforeſaid: In all theſe Caſes, the Offender may be puniſhed by Fine or Amerciament in the Quarter Seſſions or Leet, according to the diſcretion of the Juſtices of the Peace, or the Steward.* And theſe Fines and Amerciaments are to be levyed and imployed by the High-Conſtable, in ſuch ſort as is ſet forth in *Chap.* 1. of the Conſtables Office in the beginning.

And

And if any man offend againſt the Statute of 5 *Eliz.* (*i.*) *If theſe Officers, after they have digged in any mans incloſed Ground, ſhall not fill the Pit again; or if they ſhall not preſent the defaults to the next Juſtice of the Peace as aforeſaid; or if any of the High-wayes ſhall be unrepaired; or the owners of Grounds ſhall not cut up the Buſhes, and ſcour their Ditches adjoyning to the High-wayes: In theſe Caſes the Offender may be puniſhed by Fine at the Quarter Seſſions, according to the diſcretion of the Juſtices of the Peace.* And theſe Fines are to be levyed and imployed as Fines and Amerciaments levied upon the Tranſgreſſors of the former Statute. And if any man offend againſt the Statute of 18 *Eliz. chap.* 9. (*i.*) *If any man caſt ſoyl into the High-way, and doe not remove it within the time aforeſaid; or doe not ſcour their Ditches, &c. and cut down their Buſhes in their High-wayes:* the forfeitures of theſe men (being ſet down in certain by the ſame Statute) may be levyed by theſe Officers immediatly by diſtreſs and ſale of the Offenders Goods, upon a Warrant ſent from the Juſtices of Aſſize, Juſtices of the Peace, or Steward of a Leet, before whom the perſons ſhall be convict. And if they be negligent, and doe it not within a year, then the Conſtables or Church-wardens of the place, may levy the ſame as monie is uſed to be levyed upon an Amerciament in a Leet. But all theſe Fines and Forfeitures are now by the new Ordinance of Parliament, to goe to the new Surveyors, and by them to be laid out about the High-wayes, *Ord.* 31. *March* 1654.

19. If

10. If all this labor appointed by the Statutes to be bestowed on the High-wayes, be not sufficient for the amendment thereof, the Parish must supply it: For the Parishioners of every Parish are to look to their High-wayes, that they be well repaired and kept at their peril. For an Information or Indictment may be (by the very Common Law preferred for the Keepers of the Liberties of *England*, &c.) against the Inhabitants of a Parish for not repairing of their High-wayes; and thereupon they may be fined to the Keepers of the Liberty, &c. And in this case the Fine shall not goe to the use of the High-wayes, as the Forfeitures and Penalties for the breaches of the Statutes shall doe.

See more for the amendment of the High-wayes in *Sussex*, *Surrey*, and *Kent*, *Stat.* 39 *Eliz. c.* 19. 27 *Eliz. c.* 19.

Of the new Surveyors, upon the new Ordinance, and their Office and Duty.

And now as touching the new Ordinance, made for the repair of High-wayes, and the new Surveyors Power and Duty therein, and the Law at this day in this poynt, these things are to be known.

Who must be chosen.

1. That there must be two or more sufficient Housholders of every Parish, severally holding Lands of twenty pounds, or more, a year, or that are worth one hundred pounds in personall Estate, chosen the first Tuesday after the twenty fifth day of *March* yearly: (And upon this day also it seems now the Surveyors also are to be chosen: And if no such choise be made of these new Officers this day, then the Overseers of the Poor for that present time must be the Surveyors of the High-wayes also

Numb. 3.

20 *l. forfeit by the Parish, for want of choyse.*

also upon this new Law. Also Scavengers (where any are) or (as it seems) they may be made in any Parish as new Officers: And there they are to be Surveyors, & have equall power with the Surveyors by this new Law. And now, at this day, by this we doe perceive that there are to be Supravisors for the High-wayes, upon the former Laws, to oversee all the Work required to be done by them; which is to be continued and performed still. And there are to be new Surveyors, by this new Law, to oversee the Work to be done thereby; and these are distinct Officers one from the other. And if these Officers execute their Offices faithfully but a while, their wayes will be so good, that there will be little to do for either of them, for a long time afterwards.

What they may and must doe. Numb. 4.

The men of the Parish chosen ro this Office, by this new Law, they are to see to these following things. 1. They must take upon them the Office, and procure themselves, within ten dayes after their choyse, to be sworn before some Justice of Peace, or forfeit ten pounds for their refusall. 2. They must repair and cleanse, and keep repaired and cleansed all the High-wayes, common Bridges, Watercourses, Streets, and Pavements, belonging to the Parish. And in Cities and Towns corporate, all the Streets and Pavements therein or the Suburbs thereof or neer adjoyning to the same. And in other places where Pavements and Streets are, they are to look to them: And they are to reform common Nusances herein. They are also to pro-

secu-

secute all such as have streightned the High-wayes by Hedges, Ditches, Walls, or the like, within twenty years past; and such as doe not scour and dress their Hedges, Ditches, &c. and such as have any Pavements defective, or suffer any Nusance by filth or otherwise. 3. They are for this purpose, within ten daies after they have taken their Oath, to view all the common and publick High-wayes, and Roades where Carts and Carriages usually passe, and consider what is to be done, and what money to be raised to doe it. 4. They are, within six dayes after this view, to give notice in their Parish Church or Chappell; of a time and place of meeting, to be within three daies after, to meet to make a Rate to raise money to doe it. 5. At that time and place they, with their, or the greater part of their Neighbours present (if they can agree together) if not, by themselves are to make a pound Rate in writing upon all the Occupiers of Houses, Lands, Tythes, Cole-Mines, saleable Woods, Tenements, and Heraditaments within the Parish; and upon all the dead Goods, Commodities, or Stock in Trade, accounting twenty pounds therein, to be equall to twenty shillings a year in Land. And herein they may rate over and above all such men as doe suffer any Nusances in, or doe any hurt to the High-wayes: And so they may rate as oft as they please, so as they doe not exceed herein twelve pence in the pound for one year. 6. If these Officers and the rest of the Parishioners present, cannot within two dayes of this meeting agree, then they themselves may

Twenty shillings forfeit, if neglected.

may make it : And being made, they must get it to be confirmed by the hand of one Justice of the Peace. And being thus made, it is become a perfect Rate, and not to be altered but by the Justices of the Peace in their Quarter Sessions, or by two of the Justices then present at the Quarter Sessions : And this Rate, if every man doth not pay it within seven dayes after it is made, and after publique notice is given for the payment of it, is to be doubled. 7. They are to hire Ploughs and Men, so many as they think fit : And the Men so hired must work, being required, for the wages that any two Justices of the Peace shall set down. 8. They may cause the Dytches adjoyning to High-wayes, or serving to lead the water from them, that are undressed or unscoured, to be dressed and scoured. And for any water-course that doth run into or stand in any High-way to annoy it, they may stop it or turn it into any adjoyning Ditch; or they may make new Ditches in convenient places through the grounds adjoyning, for the conveyance thereof another way. And they may cut, plash, and keep low all the Trees, Bushes and Hedges standing in High-wayes, or that are suffered to grow up by them, to keep the strength of the Sun from them. 9. They may dig and take Stones, Gravel, Sand, Cynder, Chalk, or any thing fit for the mending of the High-wayes in any common ground. And if none be to be found therein, or no such Common there, then they may take it in any private mans Ground, Pasture, or Fallow in or neer the Parish.

Pariſh. And they may take a convenient way to carry it through any mans ground at ſeaſonable times: but for this way, and for materialls taken out of a private mans ground, they are to give to him reaſonable ſatisfaction ſuch as they can agree upon; and if they cannot agree upon it, then ſuch as any one Juſtice of Peace not intereſſed in the thing, and indifferently choſen between them ſhall ſet down. 10. If the Pariſh by the Rate of twelve pence in the pound in the whole year, cannot ſufficiently amend their High-wayes, the Surveyors may by the help of the Juſtices of the Peace get them help from other Pariſhes, that are under that Value in the whole year, untill their whole charge come up to this Rate. And if there be any thing given towards the Repair of their High-wayes, which is not imployed or miſ-imployed, they are to ſeek to the Juſtices of Peace for relief herein. 11. Theſe Officers alſo may, and ſo may any Conſtable or other man within the Pariſh, take all the Horſes, Mares, and Oxen that are in Carts and Waggons loaden, drawn through the Pariſh, that are over and above five Horſes or Mares, or ſix Oxen and one Horſe in one Cart or Waggon. And if the Owner doe not within ſeven dayes after the taking thereof, pay twenty ſhillings to the Pariſh wherein they were taken, for every Oxe Mare or Horſe, over and above the number aforeſaid, with the charge laid out about it, and for the keeping of it; then he may ſell the ſame and deduct ſo much of the money. But the overplus

Charitable uſes.

Supernumerarie Cattel in a Plough.

he must give back to the Owner. 12. If all this will not doe, to redress the defects of pavements and water-courses, and to make them run freely; and for the removing of filth and other Nusances in streets, and other by places, the Inhabitants of the Parish may make by-Lawes for a speciall Rate upon the Parish, and make speciall Officers, and put penalties upon Offenders, and other things to doe it. And these Rates and penalties may be levyed by distress and sale of the goods of the party, by warrant from any Justice of the Peace: and these By-lawes they may have confirmed by the Justices of the Peace in their Quarter Sessions. 13. They are to imploy and bestow all the Rates, Penalties, Fines and forfeitures, arising by this new Ordinance, or by any other lawes touching High-wayes and Streets; and all Issues to be forfeit for not appearing to any Information or Indictment for not repairing of High-wayes, or not removing or reforming of Defects or Nusances in Streets or High-wayes; and all Fines and Amercements to be set upon any place or person for not repairing High-wayes, Streets, or Water-courses, to pay for Workmen and Ploughs, and to doe other things to be done by this Ordinance. 14. Those Rates and penalties these Surveyors, or any of them, may levy by distress and sale of goods of the party, by a warrant from any one Justice of the Peace: and for lack of distress or not payment thereof within ten dayes after demand made or left in writing, under the hands of the Surveyors, or either of them at his house,

By-Laws.

Distress.

who

who is to pay it, the party may, by warrant of the Justice, be committed to Gaol without Bail till he pay double the money to be paid, and the charges of prosecution for the recovery of it. 15. They are within a moneth of the end of the year in their Office, to give in to the Parish at some meeting, to be by them appointed, a just and perfect Account of all the money by them recived, and laid out, in the time of their Office; and they are to pay over the money then remaining in their hands to their Successors. And herein they may deduct the money they have laid out in the prosecution of such as doe any Nusance in the High-way; and upon his neglect or refusall that is a Surveyor, any Justice of Peace may commit him to Gaol without Bail, till he make such Account and payment, and such satisfaction to the Parish for the wrong, as any one Justice of the Peace shall set down. 16. And if any of these Officers, or any other, be sued for any thing done in these things, the Action must be laid in the County where it was done, he may plead to it the generall Issue: and if the case appear so, the Jury must fine for the Defendant; and then, or if the Plantif be non-suit, or discontinue his Action, the Defendant shall have his full costs he hath laid out, to be set down by his own oath, and ten pounds more to make him amends for his vexation, *Ordinance of the Lord Protector and his Councell, March* 31. 1654. *Account.*

CHAP. XIIII.

Of the Regiſter *of a Pariſh and his Office.*

What he is, and how he is choſen.

THe Regiſter of a Pariſh is a new Officer choſen by the Pariſh, and allowed by the Juſtices of the Peace, for the publication of Contracts of Marriages, and for the taking and keeping of the entries of all the Marriages, Burialls and Chriſtnings of the Pariſh. He is to be choſen by the Pariſh, and approved and ſworn by a Juſtice of Peace, and the ſame entred upon the Regiſter book of the Pariſh: And then he is to continue three years in his Office and longer, till another be choſen; unleſs the Juſtice of Peace, or Juſtice of Peace and Pariſh together, put him out in the mean time.

His Office and Duty.

This Officer is to receive a note in writing from any one or both of his Pariſh, or one of his,

his, and one of ſome other Pariſh, that intend Marriage, of their Names, Sirnames, Additions, and places of abode, of the parties to be married, and of their Parents, Guardians, and Overſeers.

2. This he is to publiſh, or cauſe to be publiſhed three ſeveral Lords dayes then next following, at the cloſe of the morning exerciſe, in the Church or Chappel; or, if the parties to be married deſire it, in the Market-place next thereunto, on three Market dayes, in three ſeveral weeks next following, between the houts of eleven and two of the Clock.

3. Upon requeſt of the parties concerned, he is to make a true Certificate of the due performance hereof.

4. If any exception be made againſt the ſame intended marriage, he muſt inſert the ſame, with the name of the perſon making the exception, and his place of abode in the Certificate of publication.

5. It were very convenient for him to be preſent at the Marriage; for he is to attend the Juſtice of Peace to ſubſcribe the entrie of the Marriage.

6. He is to call for, receive, and keep the old Church-Book; and to call for, of the Pariſh, a new Regiſter parchment Book, which the Pariſh muſt provide, and he muſt keep; And therein he is fairly to enter in writing all the publication of Marriages, Marriages, Births of Children, and Burials of all ſorts of perſons, and the names of every of them, and the dayes of the moneth and year of publications, Marriages, Byrths, and Burials,

and the Parents, Guardians, or Over-ſeers names. And for this his Fees are as followeth: For the publication and Certificate of a Marriage twelve pence; and for the entry of the Marriage, twelve pence: And for the entry of the Birth of a Child four pence; And for the entrie of the death of any man four pence. And for all this, for poor People that live upon Almes, nothing: But by the Ordinance of 3. *Jan.* 1644. it was ordained, That ſuch a Book ſhould be provided by every Pariſh, and kept by the Miniſter and other Officers of the Church; and that therein the names of all Children and their Parents, the time of their Byrth and Baptiſm; and of all perſons Married, and the time of all Buried, and the time of their Birth and Burial be written and ſet down by the Miniſter there. And that the ſame Book ſhall be ſhewed forth by ſuch as keep it, to all perſons reaſonably deſiring to ſearch for any ſuch thing, or take a Copie, or procure a Certificate thereof.

So that now by this the Miniſter muſt take care of this alſo; for this power is not taken from him by the new Law, being in the affirmative: Therefore he and the Regiſter muſt doe it together, or elſe he muſt be made Regiſter; and this is the beſt way.

CHAP.

Chap. XV.

Of a Pariſh-Clerk, *and his Office.*

THe Pariſh Clerk is a Lay Officer of a Pariſh, choſen according to the Cuſtom of the place, to attend upon the Miniſter and Church-wardens, about holy things. This Officer may be a Lay man, and is to be choſen according to the Cuſtom of the place; if uſually the Pariſh have choſen him, ſo he muſt be choſen; and that election will ſtand, and no Canon of the Church, when Canons were in force, could have altered it: And therefore in this Caſe if the Pariſh, according to Cuſtom, had choſen one man; and Miniſter of the Pariſh, and the Biſhop, or Chancellor of the Dioceſs had choſen another, according to the Canon, the Clerk choſen by the Pariſh ſhould have ſtood; And the ordinary might not have de-

prived him. *Jac. Co. B. Candict* and *Plom* case *Hughs Rep.* 163. Nor can the Parson of a Parish put a Clerk so chosen out of his place without cause, or interrupt him; he may have an Action against him, as another man that is interrupted in any Lay Office, *March. Rep.* 101. *pl.* 174.

His Office lyeth only in and about these things; To set the Bread and Wine and Cups decently upon the Communion Table, to provide water for Baptising, make and keep clean the Church, put the Bible and C for the Minister, begin the Psalm, ring the Bell or Bells, and such like things. See the same case.

His wages. If any of the Parishioners withhold his wages, he may be relieved herein by any two Justices of Peace, who may by Warrant require payment thereof: And these two Justices may, by Warrant, under their Hands and Seals, order the Parishioners to pay it: And if they refuse, as it seems, send their Warrant to levy it by distress and sale of Goods, and for lack hereof, send the partie to Gaole till he pay it. But without Question the two Justices may binde the Parishioners over to the Quarter Sessions one year; if the Parishioner refuse to obey their Order, the Sessions may binde them to the Good-Behaviour; or upon Indictment for their contempt, fine and imprison them, *Ordin. 9. Feb.* 1647.

CHAP.

Chap. XVI.

Of a Hayward *of a Pariſh or Mannor, and his Office.*

THe Haward or Hayward of a Pariſh is an Officer of a Pariſh choſen and ſworn in a Leet, for the Town, to be the common Heard of the Town, *Kyteh.* 46. *What.*

The Law taketh not much notice of this Officer, but it is ſaid, He is to keep the Hedges of the incloſed Grounds of the Pariſh, ſo that they be not cropt nor broken down, and the Graſs of the Pariſh from the deſtruction of Cattel, ſo that Hay be made thereof: That he is to execute ſuch Proceſs of the Lords Court, as doe come from the Lord or his Steward of his Court there. That he is to preſent all Pownd breaches made there, and all Wayffs and Eſtrays that ſhall come there. But if he doe not ſo, we know *His Office.*

know no Law to enforce him to it, nor to puniſh him for neglect of it.

But the beſt uſe that we know is, or can be made of him is, to look to the common Fields and Commons of the Pariſh; and to doe his beſt to prevent and to reſtrain Treſpaſſes and ſpoil. But herein he can doe nothing more than any other Servant, nor otherwiſe then as a Servant to the parties treſpaſſed, and by authority or allowance from them.

CHAP. XVII.

Of the Bayliff or Reeve of a Mannor, and his Office.

What he is.

THE Bayliff or Reeve of a Mannor is an Officer of a Mannor choſen by the Lord of a Mannor, to diſpoſe of his Affairs concerning the Mannor.

Of this Officer the Law doth take ſome more notice. And his Office is ſaid to lye in theſe things.

His Office.

1. He is to collect the Lords Rents, Fines, Haryots, Amercements, and other profits happening

pening within the Mannor, as they grow due.

2. He may ſeize or diſtrain for them, *Ex Officio*, where ſeizure and diſtreſs is juſtifiable, as Bayliff, without any ſpecial command of the Lord.

3. He may alſo pay any Rent due, out of the Mannor, to any other perſon.

4. It ſaid ſaid, He may alſo order his Maſters Husbandrie, diſtrain Beaſts, damage feſant, repair any houſes, hayes, or pales, and for that purpoſe cut down any Timber or Trees. That he may take any Cattel for his Maſter to compaſt his ground as an Agiſtment. That he may cut down Underwoods that have been uſed to be cut, and doe any other ſuch like thing for the bettering and improving of his Maſters Land and Mannor. But it is not ſafe for a Bayliff (as we conceive) to take too much herein upon him without ſome ſpecial authority from the Lord; nor very ſafe for others to joyn with him herein, unleſs they be ſure of his authority, or he hath been long Bayliff there, and hath been uſed alwayes to doe ſuch things as Bayliff. But it is agreed of all ſides, That if he build any new houſe, or ſet up any old houſe that is fallen, or make any new additions or alterations, as tyle the houſe which before was thatched, or pale it where before it was hedged, or the like, without a ſpecial command from the Lord ſo to doe, he will be a Treſpaſſor to the Lord by it.

5. Theſe alſo are to overſee and order the labors of other Laborers and Servants that are under them, about their Maſters work.

6. And

6. And laſtly, They are to give account to their Lords, of all their Receipts and diſburſements, and pay into them the money remaining in their hands, being required. And if they refuſe, the Lord may compell them hereunto by an eſpecial Action of Account given to him for his relief in the Caſe, *Brac. Bayliff* 31. 8 *Ed.* 4. 13.

CHAP. XVIII.

Of ſuch Watchmen *as keep Watch and Ward.*

The Power and Duty of them.

THe Office and Power of a Watchman and Wardſman lyeth in theſe things.

1. They are, being required by the Conſtable, to watch and ward from *Aſcention* till *Michaelmas*; the Watchmen from Sun ſet to Sun riſing; and the Wardſmen from Sun riſing to Sun ſet.

2. Theſe Officers are to poſe all men, and to arreſt and ſecure all Rogues and ſuſpitious perſons, and if it be in the night, to keep them

hem till the morniug, and then bring them o a Juſtice of Peace to be examined; or if hey will, they may deliver them to the Conſtable, who muſt take care of them. And iſ ny reſiſt them and break away they may end Hue and Cry after them.

CHAP. XIX.

Of the Miniſter *of a Pariſh.*

THe Miniſter of a Pariſh his Oſfice about civil matters, lyeth in theſe things only. *His Office and Duty.*

1. He muſt keep a Regiſter Book

2. He muſt herein enter a Teſtimoniall, or Paſs, of all the Rogues that are taken up and whipped in the Pariſh.

3. He muſt herein enter all the Licences he gives to ſick perſons, to eat fleſh in lent.

4. He muſt alſo enter therein all Teſtimonials of Servants, departing from their Maſters.

CHAP.

Chap. XX.

Of Owners and Rulers of Faires and Markets, and their Deputies.

Their Office and Duty.

THe Office of Rulers, and Owners of Fairs and Markets lyeth in these things

1. they must appoint one certain open place in the Faire or Market, for sale of Horses, Gelding Mares and Colts, and one sufficient person to take toll, and keep the place.

2. This Deputy or person so appointed must take Toll there from ten a clock to Sunset, upon the Market or Faire day.

3. And he may take Toll after or before or in another place.

4. when any Contract is made about the sale of any horse, the parties contracting and the horse about which the Contract is made, must be present.

5. He

5. He muſt have and keep a Book to enter all Contracts of Horſes.

6. He muſt there enter and write down the names of the Perſons contracting, the place of their dwellings, and colour, or ſome other ſpeciall mark of the horſe.

7. If he know the Seller himſelf, he may enter it as upon his knowledge, the name of the Seller and place of his dwelling, myſterie, price, and otherwiſe he muſt take the ſame knowledge from ſome one credible perſon that will teſtifie it; and then he muſt enter alſo in the Book the Names, Miſtery, and place of dwelling of the Teſtifier.

8. He muſt give a note of this entrie out of his Book to the Buyer, ſo he will pay him two-pence for it.

9. This Clarke or Regiſter is, within a day after the Faire or Market, to bring his Book to the Governor or Maſter of the Faire.

10. This Governor is then to cauſe a Note to be made of all the Horſes ſold, and to ſubſcribe his name or mark to it. *Stat.* 31 *Eliz.* 21. 2 *and* 3 *Ph. and M.* 7.

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